

**THE HON'BLE SRI JUSTICE S. RAVI KUMAR**

**C.M.A No.791 of 2009**

**Date:14.07.2016**

**Between:**

The Union of India  
Rep by the General Manger,  
South Central Railway,  
Secunderabad.

... Appellant.

**AND**

V. Krishna Sri and others.

... Respondents.

**The Court made the following :**

**THE HON'BLE SRI JUSTICE S. RAVI KUMAR**

**C.M.A No.791 of 2009**

**JUDGMENT:**

This appeal is filed questioning order dated 06-05-2009 in O.A.A.No.209/2007 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents 1 to 5 herein submitted application under Section 16 of Railway Claims Tribunal Act read with 124-A of Railways Act claiming compensation of Rs.4,00,000/- for death of late Vinayaka Srinivas alleging that the deceased came to Hyderabad from Delhi and boarded train No.8510 - Nizamabad - Visakhapatnam Express to go to Rajahmundry along with his friend by name; Shyama Rao in

AS.1 Coach with Berth No.10 and he accidentally fell down from Train between Bhongir and Vangapalli Railway stations at Km.No.249/30-32 and that they are entitled for compensation.

3. Appellant herein resisted the claim of claimants contending that the applicants have to strictly prove that the deceased was a bonafide passenger and the death was due to an untoward incident. Claims Tribunal conducted enquiry and on the basis of evidence produced on behalf of both parties, recorded a finding that deceased died in an untoward incident and the claimants are entitled for compensation. Questioning the same, present appeal is preferred.

4. Heard both sides.

5. Advocate for appellant submitted that order of the Tribunal is contrary to law, weight of evidence and probabilities of the case. He submitted that fall of the deceased from train is only due to his negligence and there is no liability for the railway administration to pay any compensation. It is further submitted that accident do not fall under the definition of untoward incident and as the death occurred due to his own criminal negligence, appellant has no liability.

6. On the other hand, Advocate for claimants submitted, from evidence, it is clear that the deceased boarded train No.8510 in AS.1 Coach, but he did not alight at the destination point, but subsequently his body was found between Bhongir and Vangapalli railway stations at KM.No.249/30-32 and these aspects coupled with evidence of R.W.2 would show that the deceased was a bonafide passenger and fell down from a running train and died in an untoward incident, therefore, Claims Tribunal rightly granted compensation.

7. Now the point that would arise for my consideration in this

appeal is whether order of the Court below is legal, proper and correct?

8. **Point:-**The fact that deceased boarded Train No.851-Nizamabad - Visakhapatnam Express in AS.1 Coach is not in dispute. It is also not in dispute that his dead body was noticed by duty keyman on 21-05-2007 between Bhongir and Vangapalli Railway stations at K.M.No.249/30-32 is also not in dispute. Documents i.e., F.I.R., Inquest and Report of DRM would show that deceased while washing hands, due to jerks of the train, fell down from train between Bhongir and Vangapalli Railway stations and therefore, it is an untoward incident. From this evidence and circumstances, Claims Tribunal recorded a finding that deceased fell down from a running train and it attracts the definition of untoward incident and granted compensation. Claims Tribunal by taking into consideration decision of this Court in **Balagani Siva Prasad Vs. Union of India**<sup>[1]</sup> recorded such finding. In the DRM's report, it is clearly recorded that deceased was in possession of valid ticket from Secunderabad to Rajahmundry and was travelling by Train No.8510 and accidentally fallen down from running train. So when report of their own officials disclosed that deceased had fallen from running train, objection of the appellant that death was due to own negligence of deceased cannot be accepted. Railway Claims Tribunal has rightly appreciated evidence on record and came to a right conclusion and I do not find any grounds to interfere with the findings recorded on the basis of material evidence.

9. For these reasons, I am of the view that appeal is devoid of merits and liable to be dismissed.

10. Therefore, appeal is dismissed as devoid of merits and as a sequel, miscellaneous petitions, if any, pending in this appeal shall stand dismissed. No costs.

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***JUSTICE S. RAVI KUMAR***

**Date:14.07.2016**

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[\[1\]](#) 2008 (5) ALT 605