

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.327 of 2010

Date:14.07.2016

Between:

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

... Appellant.

AND

Kinnara Prabhakar Rao and others.

... Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.327 of 2010

JUDGMENT:

This appeal is preferred against order dated 20-11-2009 in O.A.A.No.213/2003 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein submitted application to Railway Claims Tribunal claiming compensation of Rs.4,00,000/- for the death of Kinnara Rathaiah contending that deceased boarded Train No.472 UP – Passenger to go to Vijayawada after purchasing journey ticket bearing No.66962 from Parvathipuram and while travelling, due to movements of the train, the deceased slipped and fell down

accidentally from running train, sustained severe multiple injuries and died on the spot.

3. Appellant resisted the claim of respondents herein on the ground that they have no notice of any untoward incident as nobody brought to their notice and there was no alarm chain pulling and therefore, it is not case of an untoward incident. They also contended that the deceased was not a bonafide passenger and claimed for dismissal of the claim petition. Claims Tribunal conducted enquiry during which one witness was examined and five documents were marked on behalf of the claimants and one witness was examined and two documents were marked on behalf of the railways and on a over all consideration of oral and documentary evidence, Claims Tribunal negatived the objection of the Railways and granted compensation of Rs.4,00,000/-. Aggrieved by the same, present appeal is preferred.

4. Heard both sides.

5. Advocate for appellant submitted that order of the Claims Tribunal is not legal and contrary to the weight of evidence and probabilities of the case and cannot be sustained under law. He submitted that the Tribunal did not consider the material on record properly and failed to notice that there is no report of any untoward incident to the guard of the train.

6. On the other hand, Advocate for claimants submitted that the report of message, which is marked as Ex.R2 and the station diary, which is marked as Ex.R1 would clearly support the version of the claimants with regard to untoward incident. It is further submitted that simply because the incident was not reported to guard, the incident and the death cannot be discarded. He submitted that the

Claims Tribunal rightly appreciated the material on record and came to a right conclusion.

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:-**As seen from evidence, deceased purchased ticket for 472-Passenger from Parvathipuram to Vijayawada and boarded the train at about 15:30 hours on 04-05-2003 and as per the inquest report, deceased was last seen alive at about 4:00 P.M., by witnesses Pitchaiah and Ramesh, who were also going to Vijayawada in the same train. In the inquest, panchyatdars unanimously opined that the deceased while travelling in Train No.472 - passenger accidentally fell down due to the jerks of the train and died instantaneously. This part of evidence is supported and corroborated with the circumstances that a male dead body aged about 25 years was found lying at Km.397/9-10 outside of the up line track, which is reported by Gangman Parayya. The only contention raised by R.W.1 in his evidence is that he has no personal knowledge about the alleged incident, but that cannot be a ground to discard the other material evidence. When the witnesses Pichaiah and Ramesh, who were also travelling in the same train, made statement during investigation that they saw the deceased alive at about 4:00 P.M., and his dead body was found in the railway track between Km.397/9-10, these circumstances, which are supported and corroborated with the inquest report do show that the deceased fell down from the train while travelling in it. The Claims Tribunal considering these aspects rightly recorded a finding that the deceased died in an untoward incident while travelling in Train No.472 - passenger with a valid ticket, therefore objections raised by the appellant are not sustainable

and the Claims Tribunal rightly arrived at the conclusion that deceased was a bonafide passenger fell from a running train and died in an untoward incident.

9. For these reasons, I am of the view that there are no grounds to interfere with the order of the Railway Claims Tribunal and that the appeal is liable to be dismissed as devoid of merits.

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

JUSTICE S. RAVI KUMAR

Date:14.07.2016

mrh