

HONOURABLE SRI JUSTICE S.RAVI KUMAR

C.M.A.No.1255 OF 2011

Dated 16-6-2016

Between:

Union of India represented by its General Manager,
East Coast Railways, Bhubaneshwar.

..Appellant.

And:

M.Dhana Lakshmi and others.

..Respondents.

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JUDGMENT:

This appeal is preferred against order dated 11-4-2011 in O.A.II(a) No.98 of 2008 on the file of Railway Claims Tribunal, Secunderabad Bench.

Respondents herein submitted application under Sections 124 and 125 of Indian Railways Act, 1989 to the Railway Claims Tribunal contending that deceased Prasadarao died in an untoward incident on 11-6-2007 near Duvvada Railway Station while he was travelling in train No.2659 Nagarkoil-Howrah Gurudev Express with journey ticket No.32986421. According to claimants, the train Bogies tilted near Duvvada Railway station at about 10.40 P.M., the deceased herein was travelling in S-6 Coach and died due to the said derailment.

Appellant resisted the claim on the ground that the deceased has no reservation to travel in Coach No.S-6 and ticket was only general ticket and therefore, there is no liability on the railways to pay any compensation. Claims Tribunal on a consideration of evidence of A.W.1 and documents Exs.A.1 to A.7 and also report of DRM marked as Ex.R.1 has not accepted the objection of the railways and granted compensation of Rs.4,00,000/-.

Aggrieved by the same, present appeal is preferred.

Heard arguments.

Advocate for appellant submitted that only grievance of the appellant is that deceased was not expected to travel in S.6 as he had no reservation and his ticket was only a general ticket and there was no derailment of general bogi and therefore, death cannot be treated as untoward incident making appellant liable.

On the other hand, advocate for claimants submitted that it is for the railways to show that how the passenger was on S.6 at the time of incident and when the report of D.R.M. clearly disclose that the deceased died on account of derailment to S.6 Bogi and family members were immediately paid exgratia and the objection of railways cannot be accepted.

Now the point that would arise for my consideration in this appeal is whether the order of Tribunal is legal, correct and proper?

POINT:

There is no dispute with regard to death of the deceased while travelling in the train. It is clear from the evidence that the deceased died at Duvvada station due to derailment. It is also clear from the report of D.R.M. that there was a derailment of coaches and the deceased is one among person died in the accident and that an amount of Rs.50,000/- was paid as exgratia. Admittedly, the deceased possessed a journey ticket for the very same train and the only objection of railways is that it is not a reservation ticket but it is only a general ticket. Whatever ticket it may be, the fact remains, the deceased was a bonaifde passenger for train number 2659 from Samalkot to Visakhapatnam and his death was due to derailment.

As seen from the record, report of D.R.M. is supporting the version of claimants, therefore, objection of the railways is not at all tenable. Railway Claims Tribunal

On a consideration of material on record, I am of the view that the claims tribunal has rightly recorded a finding that the deceased was a bonafide passenger and died in an untoward incident and that there are no grounds to interfere with such findings.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

Dated 16-6-2016.
Dvs..

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C.M.A.No.1255 OF 2011

Dated 16-6-2016

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Dvs