

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.889 OF 2008

Dated 1-8-2016

Between:

Mallela Saileela and others.

..Appellants.

And:

The Union of India, represented by its General
Manager, South Central Railway, Secunderabad.

..Respondent.

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JUDGMENT:

This is an appeal preferred against order dated 21-6-2006 in O.A.A.No.27 of 2001 on the file of Railway Claims Tribunal Secunderabad.

Appellants herein are claimants who submitted application under Section 16 of Railway Claims Tribunal Act read with Sections 124-A and 125 of Railways Act contending that Mallela Gangaiah died in an untoward incident and that they are entitled for compensation of Rs.4,00,000/-. According to appellants, deceased boarded train number 8564 Bangalore-Visakhapatnam Prasanthi Express in Second Class General Compartment at Nandyal Railway Station to go to Vijayawada on 16-11-2000 and while traveling, the deceased went to the door to spit out side and unable to withstand the speed and jerks of the train, he fell down from running train near outer signals of Nandyal Railway Station and died on the spot.

Railways has not admitted the version of claimants and contended that there was no untoward incident of fall of anybody from the train on the fateful day and simply because, dead body was found near the railway track, there is no liability on the railways. They also contended that there is no case of untoward incident as defined under Section

123 (c) of Railways Act and further contended that claimants failed to make out case of accidental fall and in the absence of ticket, the version of claimants cannot be accepted.

On these contentions, Railway Claims Tribunal conducted enquiry and on an overall consideration of oral and documentary evidence, Claims Tribunal dismissed the claim application. Aggrieved by the same, present appeal is preferred.

Heard both sides.

Advocate for appellants submitted that judgment of Railway Claims Tribunal is contrary to law and therefore, liable to be set aside and further submitted that tribunal grossly erred in not accepting the evidence of eye witness who is examined as A.W.2 and Ex.A.3 document. He submitted that Railways Act being the beneficial piece of legislation, instead of giving liberal interpretation, tribunal gave strict interpretation and the same is not tenable. He further submitted that claimants are entitled for compensation of Rs.4,00,000/- and impugned order dated 21-6-2006 is liable to be set aside.

Advocate for appellants relied on two judgments of Honourable Supreme Court in *UNION OF INDIA v. PRABHAKARAN VIJAYA KUMAR AND OTHERS* ([\[1\]](#)) and another reported in *JAMEELA AND OTHERS v. UNION OF INDIA* ([\[2\]](#)).

Advocate for respondents submitted that as the claimants failed to prove that the deceased fell down from train No. 8564 Bangalore-Visakhapatnam Prasanthi Express being a bonafide passenger, their claim was dismissed. He further submitted that own witness of claimants has not supported the version of claimants and for that reason, Claims Tribunal negated the claim of appellants and that there are no grounds to interfere with the orders of Railway Claims Tribunal. He further submitted that both the decisions relied on by advocate for appellants have no application to the facts of this case and that the appeal is devoid of merits.

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

POINT:

It is the specific case of appellants that deceased boarded train No. 8564 Bangalore-Visakhapatnam Prasanthi Express on 16-11-2000, at Nandyal Railway Station to go to Vijayawada in a General Compartment, having purchased a ticket from Nandyal to Vijayawada. On behalf of appellants, 1st claimant i.e., wife of deceased was examined as A.W.1 one B.Maddaiah who is said to be an eye witness to the incident is examined as A.W.2. No doubt, A.W.1 i.e., first claimant is not an eye witness to the incident and she only reiterated the contents of claim application and got marked Exs.A.1 to A.6. The main witness for the claimants is A.W.2 who was also a witness examined during inquest report.

As seen from the Inquest Report, the body was found near outer signal of Nandyal Railway Station. Admittedly, in Inquest Report, there is no finding that the deceased accidentally fell down from a running train, but contrary to it, a certificate was issued by police which is marked as Ex.D.3. The claimants have not examined any one concerned with Ex.D.3. Claimants have examined B.Maddiah as A.W.2. According to claimants, he is eye witness who saw the deceased travelling in train No. 8564 Bangalore-Visakhapatnam Prasanthi Express. His evidence before the court was quite contra to what all he stated before the Investigation Officer during Inquest. In the evidence, he specifically stated that he never stated before police that deceased was trying to get down from the general compartment and in the process, fell down. So own evidence of claimants has not supported their version. Considering these aspects, Railway Claims Tribunal recorded a finding that the claimants have miserably failed that the deceased suffered death due to untoward incident within the meaning of Section 123 (c) 2 of Railways Act and

dismissed their claim.

Now it is the contention of advocate for appellants that the liberal approach has to be taken while considering the claims under Railway Claims Tribunal, the Act being beneficial piece of legislation. In support of his argument, he placed reliance on judgment of Supreme Court in *UNION OF INDIA v. PRABHAKARAN VIJAYA KUMAR AND OTHERS* (1st cited). In that case, Railways Claims Tribunal on the basis of evidence of Station Master who was examined as D.W.1 has not accepted the version of claimants and held that it was not an untoward incident within the meaning of Section 123 (c) of Railways Act. That finding was set aside by High Court and recorded that it is an untoward incident. When the matter was carried to Honourable Supreme Court, Honourable Supreme Court while dismissing the appeal observed as follows:

“No doubt, two interpretations can be given to the expression “accidental falling of a passenger from a train carrying passengers”, the first that it applied only when a person had actually got inside the train and thereafter fell down from the train, and the second that it included a situation where a person was trying to board the train and fell down while trying to do so. Since the provision for compensation in the Railways Act is a beneficial piece of legislation, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, the latter of the said two interpretations i.e., the one which advances the object of the statute and serves its purpose should be preferred. Beneficial or welfare statutes should be given a liberal and not literal or strict interpretation.”

In that case, deceased was a bonafide passenger, there material was before tribunal that the deceased while trying to enter into railway train fell down and in the process died. As the Railway Claims Tribunal discarded the version of claimants basing on the evidence of D.W.1 i.e., Station Master on behalf of railways, Honourable Supreme Court observed that liberal interpretation has to be given while examining claimants version but here in our case, even own witness of claimants has not supported their version, therefore, that decision is not applicable to the facts of this

case.

Learned advocate relied on decision of Supreme Court in *JAMEELA AND OTHERS v. UNION OF INDIA* (2nd cited) for the proposition falling down from a train itself is accidental. In that case, the issue before the Honourable Supreme Court was with regard to application of proviso to Section 124-A of Railways Act. There was material in that case that the deceased fell down from a running train and considering such evidence, it was held that it is an accidental fall comes within the meaning of untoward incident defined under Section 123 (c) of Railways Act.

But in our case, there is absolutely no evidence to show that the deceased fell down from running train. The only material before the Tribunal was that dead body was found near signal of Nandyal Railway Station, therefore, this decision is also no way helpful to the appellants.

On a scrutiny of the entire material, I am of the view that Claims Tribunal rightly dismissed the claim application and I do not find any wrong in the orders of Railways Claims Tribunal and therefore, appeal is devoid of merits.

For these reasons, this appeal is dismissed. No costs.

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

JUSTICE

S.RAVI KUMAR

Dated 1-8-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dvs

[\[1\]](#) (2008) 9 SCC 527
[\[2\]](#) (2010) 12 SCC 443