

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1329 of 2008

Date:03.08.2016

Between:

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

... Appellant.

AND

Kondaveeti Merymatha and others.

... Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1329 of 2008

JUDGMENT:

This appeal is preferred against order dated 25-06-2008 in O.A.A.No.200/2002 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents 1 to 3 herein submitted application under Section 16 of Railway Claims Tribunal Act read with Section 124A & 125 of the Railways Act alleging that deceased Kondaveeti Malleswara Rao died in an untoward incident happened on 22-04-2002 between Pulla and Chebrole Railway Stations. According to claimants, deceased is resident of Neerukonda Village, Mangalagiri Mandal, Guntur District and on the fateful day, he was proceeding to Tadepalligudem from Vijayawada in Train No.6004 Chennai – Howrah Mail in a second

class compartment with a valid journey ticket and while he was standing near door, he suddenly slipped from train due to jerks and immediately, he caught hold of the window of the compartment and was hanging for some time and ultimately slipped and fell down from running train at Km.518/12-14 between Pulla and Chebrolu Railway stations and he sustained severe multiple injuries and died on the spot at about 08:15 hrs. They claimed compensation for the death of deceased.

This claim was objected by the Railways on the ground that deceased was not a bonafide passenger and he died only due to his own negligence and therefore, there is no liability for the Railways.

3. On these contentions, Claims Tribunal conducted enquiry during which two witnesses were examined and five documents were marked on behalf of the claimants. One witness was examined and one document was marked on behalf of the railways and one Court witness was examined and document is also marked, and on a consideration of oral and documentary evidence, Claims Tribunal disbelieved the version of the railways and granted compensation of Rs.4,00,000/-. Aggrieved by the same, Railways preferred the present appeal.

4. Heard both sides.

5. Advocate for appellant submitted that the claimants have not produced any evidence to show that the deceased was a bonafide passenger for train No.6004 Chennai – Howraw Mail and the lower authority, without there being any material to show that he purchased valid journey ticket from Vijayawada to Tadepalligudem, accepted the version of the claimants and granted compensation. He further submitted that when the material on record would show that the incident was only due to own negligence of the deceased, there is no

liability on the railways as the incident is not covered under the provisions of untoward incident.

6. On the other hand, Advocate for claimants submitted that evidence of A.Ws.1 & 2, which is supported and corroborated with documents Exs.A1 to A5 would clinchingly show that the deceased died in the manner in was pleaded in the claim petition. He further submitted that even the report of Eluru Railway Police, which was marked as Ex.C1, the gateman of at L.C.Gate No.364 noticed that a person was hanging by holding window which aspect is supported and corroborated with the version of claimants and the Claims Tribunal rightly disbelieved the version of the appellants. He further submitted that even the claimants were approached by railway police, these aspects would clearly indicate that the deceased died in an untoward incident and there is no negligence on the part of the deceased.

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

7. **Point:-**There is no dispute that the deceased Malleswara Rao died by falling down from Train No.6004 Chennai – Howrah Mail between Pulla and Chebrole Railway Stations. A.W.1 is wife of the deceased she deposed in her evidence that on receiving information through somebody that sister of the deceased was missing at Tadeppalligudem, deceased left their village to Vijayawada on 22-4-2002 on the early morning and from there went to Tadeppalligudem by Chennai – Howrah mail after informing her. She stated that on the next day i.e., 23-04-2002, a Railway Police Constable came to her house and informed her that the deceased slipped and fell down

accidentally from a running train between Pulla and Chebrole Railway Stations and died on the spot on 24-01-2002 and subsequently, she came to know that the deceased was in general compartment and holding the window of the compartment, slipped and fell down. Her evidence is supported and corroborated with the inquest report so also the police report which was marked as Ex.C1 besides the statement of Railway Gateman at L.C. Gate No.364 by name G. Durga Rao. Though appellant contended that the deceased was negligent and the incident was only due to his negligence, there is no evidence to support the said version.

On the other hand, the evidence on record would support the version of the claimants that the deceased, while travelling in train No.6004 in Second Class Compartment, suddenly slipped from the train while he was near the door due to jerks of the train and that he caught hold of the window of the compartment and hanged over for some time and ultimately, slipped and fell down. The Claims Tribunal has considered evidence on record and recorded a finding that the deceased died in an untoward incident and entitled for compensation. I do not find any wrong in the approach of the Claims Tribunal in appreciating evidence on record.

8. On a scrutiny of the material, I am of the considered view that Claims Tribunal rightly negated the objection of the railways and granted compensation and that there are no grounds to interfere with the findings of the Claims Tribunal.

9. For these reasons, appeal is dismissed and as a sequel, miscellanies petitions, if any, pending in this appeal shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:03.08.2016

mr**b**

