

HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A. No.1334 OF 2008

JUDGMENT:

This appeal is preferred against the Order dated 18.07.2008 in OAA No.124 of 2002 on the file of Railway Claims Tribunal (for short, 'Claims Tribunal'), Secunderabad Bench, Secunderabad.

02. Respondents herein submitted application to the Railway Claims Tribunal contending that one Bukya Srinu, who is no other than their Son, boarded Mumbai-Bhubaneswar Konark express on 04.05.2002, to go to Khammam, in a general compartment. While traveling in the said train, he slipped and fell down accidentally from the said running train at the end of platform No.1 of Mahabubabad Railway Station and sustained severe multiple injuries, died on the spot and thereby they are entitled for compensation of Rs.4 lakhs for the death of their son in an untoward incident.

03. Appellant herein resisted the claim of the respondents and contended that since the deceased is not a bonafide passenger the railway has no liability to pay any compensation.

04. On these contentions, the Claims Tribunal conducted enquiry, during which one of the claimants was examined as A.W.1 and got marked Exs.A.1 to A.8. Whereas two witnesses were examined and one document was marked on behalf of the respondent and on a overall consideration of oral and documentary evidence, the Claims Tribunal did not accept the objections of respondent-railways and recorded finding that the deceased is a bonafide passenger and died in an untoward incident and granted compensation of Rs.4 lakhs to the claimants.

05. Aggrieved by the said order, Railways preferred the present

appeal.

06. Heard arguments.

07. Advocate for appellant submitted that the Claims Tribunal simply accepted the testimony of one of the claimants to support the petition averments, though they have not examined any eye witness, to prove alleged fall from a running train. He further submitted that the claimants have not produced any material to show that the deceased was a bonafide passenger, traveled in train No.1019, Mumbai-Bhubaneswar express, and that the entire findings of the Claims Tribunal are only on presumptions and surmises. He further submitted that the Claims Tribunal erred in granting compensation and the same is liable to be set aside.

08. On the other hand, Advocate for the respondents supported the order and submitted that there is material on record to show that the deceased died due to fall from a running train, therefore burden shifted on the railways to show that deceased was not a bonafide passenger and the Claims Tribunal rightly granted compensation and there are no grounds to interfere.

09. Now the point that would arise for my consideration is:
Whether the Order of Claims Tribunal is legal, proper
and correct?

POINT:

10. It is the specific case of the claimants that their son-Bhukya Srinu boarded train No.1019 Mumbai-Bhubaneswar Konark Express on 04.05.2002 in II Class general compartment to go to Khammam.

11. Admittedly FIR was registered, inquest was also conducted on the dead body and in the inquest it is clearly recorded that as per the evidence of eye witness, particularly, Rama Swamy, Keyman, who is on duty, the deceased while traveling in Konark express

slipped and accidentally fell down at the end of platform No.1 of Mahabubabad Railway Station and that unanimous opinion of panchayatdars is that it is an accidental death. Even in the FIR, the said Rama Swamy was referred as eye witness to the fall of the deceased from the said train. On the basis of message of Rama Swamy, FIR was registered. The said Rama Swamy sent a message that one unknown person aged about 25 years had fallen down from train No.1019 Mumbai-Bhubaneswar Konark express at KM 436/30-32 MABD yard and requested the Police to conduct panchanama. This part of evidence remained unrebutted, which clearly establish that the deceased while traveling in train, slipped and fell down accidentally. Therefore, the burden is now on the Railways to show that deceased was not bonafide passenger. Admittedly, no evidence is produced to rebut the above referred evidence.

12. Considering the above referred evidence, the Claims Tribunal recorded a finding that the deceased was a bonafide passenger and died in an untoward incident. I do not find any wrong appreciation of evidence or any illegality in the findings of the Claims Tribunal on a scrutiny of the material, I am of the view that the Claims Tribunal rightly recorded the finding that the deceased was a bonafide passenger as there was no evidence rebutting the contents of FIR and inquest report and the report of Ramaswamy.

13. For these reasons, I am of the view that the objection of the appellant-Railways with regard to the finding of the Claims Tribunal cannot be sustained and that there are no grounds to interfere with the compensation granted by the Claims Tribunal.

14. Therefore, the appeal is dismissed. No costs.

15. Miscellaneous Petitions pending, if any, in this appeal shall stand dismissed.

09.06.2016
BV

S. RAVI KUMAR, J