

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.381 of 2010

Date:14.07.2016

Between:

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

... Appellant.

AND

Smt. Bommisetti Ramulamma
and others.

... Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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JUDGMENT:

This appeal is preferred against order dated 03-02-2010 in O.A.A.No.295/2005 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents 1 & 2 herein submitted application under Section 16 of Railway Claims Tribunal Act and Section 125 of Railways Act claiming compensation of Rs.4,00,000/- for the death of Bommisetty Surya Rao alleging that deceased boarded Train No.471-Passenger with a journey ticket from Vijayawada to Pithapuram and when the train reached Pithapuram Railway Station on 06-07-2002, he

accidentally slipped and fell down at Pithapuram Railway Station due to which he sustained severe injuries and succumbed to injuries on 9-7-2002.

3. Appellant herein resisted the claim of claimants on the ground that incident do not fall under the provisions of Section 123 (c) or Section 124-A of the Railways Act and also contended that deceased was not a bonafide passenger.

On these contentions, Railway Claims Tribunal conducted enquiry, during which two witnesses were examined and six documents were marked on behalf of the claimants and no witness was examined and no documents were marked on behalf of the appellant and on a over all consideration of oral and documentary evidence, Claims Tribunal recorded a finding that deceased died in an untoward incident and that he is a bonafide passenger, therefore, the appellant is liable to pay compensation. Questioning the same, present appeal is preferred.

4. Heard both sides.

5. Advocate for appellant submitted that railways specifically contended that deceased was not a bonafide passenger and they have not produced any evidence to show that he died in an untoward incident and these aspects were not considered by the Railway Claims Tribunal and therefore, order of the Claims Tribunal is liable to be set aside.

6. On the other hand, Advocate for claimants submitted that one of the co-passenger was examined as A.W.2, who clearly supported the version of the claimants and that ticket was also produced at the time of inquest on 09-07-2002 and these aspects were not rebutted by adducing any evidence on behalf of Railways, considering the

same, Railway Claims Tribunal granted compensation and that there are no grounds to interfere with the finding of the Claims Tribunal.

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:-**It is the contention of the claimants that deceased purchased ticket on 05-07-2002 from Vijayawada to Pithapuram for three persons and all of them boarded Train No.471-Passenger and that the train reached near Pithapuram on 06-07-2002 at about 3:30 A.M., in the early hours and while getting down from the train at Pithapuram Railway Station, the deceased fell down between the train and platform and sustained injuries and thereafter succumbed to injuries on

09-07-2002. One of the co-passenger, who also travelled along with the deceased, was examined as A.W.2 and he deposed supporting the version of the claimants and his evidence remained unrebutted. He also deposed that all of them purchased a common ticket and at Pithapuram Railway Station, when the train was moving, the deceased got down from the train and in the process, he fell down between platform and the track as the train did not stop, the deceased sustained injuries.

He deposed, at that time, he was standing on the platform having got down from the train. As seen from the record, common ticket was produced at the time of inquest i.e., on

09-07-2002 which is ticket No.13515779 for Rs.102/-, this supports the version of the claimants and there is no rebuttal evidence on behalf of the railways to doubt the testimony of A.W.1 and A.W.2. It

is also clear from the evidence that railways moved the injured to hospital and he was treated in railway hospital and succumbed to injuries on 09-07-2002. Once the claimants proved that the deceased was a bonafide passenger and fell from the train, while getting down at Pithapuram Railway Station, the burden is on the railways to disprove the same. But admittedly, no evidence is adduced on behalf of the appellants before the Claims Tribunal. As rightly pointed out by Advocate for claimants in the absence of any evidence, the objections of the railways with regard to findings of the trial Court cannot be accepted.

9. On a scrutiny of the material, I am of the view that the claims Tribunal rightly appreciated the material on record and came to a correct conclusion in awarding compensation to the claimants and that there are no grounds to interfere with the findings recorded by the Claims Tribunal.

10. For these reasons, I am of the view that the appeal is devoid of merits and liable to be dismissed.

11. Therefore, 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

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