

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.192 of 2008

JUDGMENT:

This appeal is preferred questioning order dated 05.10.20106 in O.A.A.No.318 of 2004 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondent Nos.1 to 6 herein submitted application under Section 16 of Railway Claims Tribunal Act read with Sections 124-A and 125 of Railway Act, (for short, 'Act') contending that late Siddaiah boarded train No.349 Hyderabad-Aurangabad Passenger in general compartment with a journey ticket No.78813 on 21.12.2004 and while getting down from the train at Marpalli Railway Station, he slipped accidentally and fell down between the platform and train and was dragged by the train to some extent, due to which he sustained multiple injuries and died on the spot on the intervening night of 21/22.12.2004. Claimants contended that they are entitled for compensation as Siddaiah died in an untoward incident of accidental fall.

3. Appellant herein disputed the claim and contended that the death was due to the own negligence of deceased. It further contended that deceased had ticket from Sanathnagar to Marpalli and as he fell down between Marpalli and next station Kohir after the train has left Marpalli, he had no valid ticket beyond Marpalli, therefore,

deceased is not a bonafide passenger and claimants are not entitled for any compensation.

4. On these contentions, Railway Claims Tribunal conducted enquiry and on a consideration of material evidence, negatived the objection of Railways and granted compensation of Rs.4,00,000/- to the claimants. Questioning the same, present appeal is preferred.

5. Heard both sides.

6. Advocate for appellant submitted from the evidence it is clear that the deceased purchased ticket from Sanathnagar to Marpalli, but the incident was between Marpalli and Kohir railway stations i.e., after the train left Marpalli, therefore, the deceased cannot be treated as a bonafide passenger and Railway Claims Tribunal erred in granting compensation. It is further submitted that from the report of DRM, it is clear that deceased made an attempt to get down from a moving train, therefore it is his own negligence and there is no fault on Railways and the order of Railway Claims Tribunal has to be set aside.

7. On the other hand, advocate for claimants submitted that the Hon'ble Supreme Court in **Union of India v. Prabhakaran Vijaya Kumar and others**^[1], clearly held, if a person while trying to get into a moving train or trying to get down from a moving train falls down resulting to death or injury with a bonafide ticket or not is entitled to compensation and from the evidence it is clear that the deceased while getting down from the train at

Marpalli railway station slipped accidentally and he was dragged by the train to some distance and sustained injuries, therefore, the objection of appellant is not tenable. He further submitted that Railway Claims Tribunal rightly appreciated the evidence and that there are no grounds to interfere with the same.

8. Now the point that would arise for my consideration in this appeal is:

Whether the order dated 05.10.2006 in O.A.A.No.318 of 2004 on the file of Railway Claims Tribunal, Secunderabad Bench, is legal, proper and correct?

POINT :

9. It is the specific case of claimants that deceased purchased journey ticket for train No.349 Hyderabad-Aurangabad Passenger from Sanathnagar to Marpalli and boarded the train in a general compartment, but while getting down from the train at Marpalli railway station, he slipped and fell down from the train, which caused severe multiple injuries, due to which he died on the spot. Claimant No.6 was examined as AW.1 and through him Exs.A.1 to A.5 were marked. Claimants also examined a third party as AW.2. From the evidence of these two witnesses, it is clear that the deceased while getting down from a moving train at his place of destination accidentally slipped and fell down. No doubt, he tried to get down from the moving train and in the process he fell down in

between platform and train and that he was dragged by the train for some distance. The evidence of A.Ws.1 and 2 is supported and corroborated with the inquest report- Ex.A.2 and also report of DRM. No one is examined on behalf of appellant to support their plea that was taken in the counter. Considering the evidence of A.Ws.1 and 2 and documents Exs.A.1 to A.5, Railway Claims Tribunal disbelieved the plea of Railways and granted compensation. As rightly pointed out by advocate for claimants, from the above referred Supreme Court decision it is clear if a person falls while trying to get into a moving train or trying to get down from a moving train, resulting to his death is entitled for compensation.

10. As seen from the record, appellant after disposal of the case filed a review before the Railway Claims Tribunal and that was also dismissed on 14.11.2007 by considering the material on record. On a scrutiny of the material, I am of the view that Railway Claims Tribunal has not committed any error and rightly appreciated the evidence and came to a right conclusion and objection of appellant is not tenable.

11. For these reasons, appeal is dismissed.

12. Accordingly, appeal is dismissed.

13. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

11th July 2016.

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[\[1\]](#) 2008 (9) SCC 527