

HON'BLE SRI JUSTICE S. RAVI KUMAR

CMA No. 1420 OF 2008

JUDGMENT:

This appeal is filed against order dated 20.08.2008 in O.A.A.No. 66 of 2002 on the file of Railway Claims Tribunal, Secunderabad Bench, Secunderabad.

2. Respondents herein submitted an application under Section 16 of the Railway Claims Tribunal Act 1987 read with Section 124-A of Railways Act 1989, ('the Act' for short) alleging that Manthani Gopi died in an untoward incident happened on 28.5.1998 at Basar Railway Station. According to claimants, the deceased while getting down from Passenger Train No. 558, at Basar Railways Station at about 10.00 p.m with a second class journey ticket No. 38762 from Nanded to Basar, got hit by the train, received grievous head injury, and died due to the said injury. The appellant resisted the claim of the claimants and contended that one passenger aged about 40 years got head injury while getting down from Train N. 558 on off side, as he was feeling giddiness while getting down on the off side of the train where there was no platform, it lead to injury and the incident does not fall within Section 123(c)(2) of the Act and therefore, the railways have no liability to pay compensation.

3. On these contentions, the claims Tribunal

conducted an enquiry and on consideration of evidence of AW-1 and documents Exs. A1 to A5 on behalf of claimants and evidence of RW-1 and document Ex. R1 on behalf of railways, disbelieved the objection of the railways and granted compensation of Rs. 4,00,000/-. Aggrieved by the said order, Railways preferred the present appeal.

4. I have perused the material papers including the impugned order dated 20.08.2008. The main ground on which appellant resisted the claim is that they have no liability and that the Tribunal failed to see that there are no eye witnesses for the alleged untoward incident took place and it put the burden on the appellant and negatived the claim of the appellant. As seen from the record, Station Master of Basar was examined as RW-1, who deposed that on 28.5.1998, a male passenger was found with head injury on off side of loop line, after departure of the train and that on being asked, he had told that he had giddiness while getting down and that the person was rendered first aid, as per instructions of SI, Government Railway Police, Nizamabad the injured was sent to Nizamabad along with a Railway Sweeper by name Shafi, but before the train reached Nizamabad, the injured died and that the same was informed through Ex. R1 message. As seen from the record, the injured was a bonafide passenger with train ticket No. 38762 from Nanded to Basar and he was found with injuries on off

side of the platform at Basar railway station. According to the evidence of AW-1, the injured accidentally fell down and received grievous injuries to his head. Considering the evidence of AW-1, which is supported and corroborated with documents Exs A1 to A5, Railway Claims Tribunal recorded a finding that the deceased while getting down from the train on off side of the train, got hit by the foot board of the compartment, as the train moved and sustained injuries, which resulted in his death and held that the death was due to untoward incident and granted compensation. The evidence on record supports the version of the claimants, therefore contention of the appellant that the Tribunal put the burden on them is not tenable. Further, as seen from the record, even the evidence of Station Master also supports the version of the claimants to some extent with regard to receiving of head injury on off side of loop line, which ultimately resulted in death of the deceased.

5. Considering the material on record, I am of the view that Railway Claims Tribunal has not committed any error in appreciating the evidence of both the parties and rightly recorded a finding that the death was due to untoward incident of fall from train.

6. For these reasons, I am of the view that there are no grounds to interfere with the order passed by the Claims Tribunal dated 20.08.2008 and that the appeal devoid of merits.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE S. RAVI KUMAR

DATE: 14.07.2016.

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