

HONOURABLE SRI JUSTICE S.RAVI KUMAR

C.M.A.No.1392 OF 2008

ORDER:

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This appeal is preferred against order dated 20th August, 2008 in OAA No.301 of 2002 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein submitted application to Railway Claims Tribunal claiming compensation of Rs.4,00,000/- for death of Ganta Appa Rao contending that deceased died in an untoward incident that happened on 18.12.2001 at Eluru Railway Station. According to claimants, on 18.12.2001, deceased purchased second class journey ticket from Samalkot to Eluru and boarded train No.7047 – Kakinada – Secunderabad Goutami Express and when the train reached Eluru Railway Station, there was heavy rush at the door and after some passengers got down, deceased came to the door to get down, but the train moved with sudden jerk, as a result he slipped and fell down between platform and train and that deceased was dragged to some distance and due to multiple injuries he died on the spot.

3. Railways resisted the claim contending that deceased was not a bonafide passenger and Guard of Goutami Express reported that he noticed heavy mob of public wearing badges of 'Chalo Hyderabad' through out journey from Kakinada to Eluru entering into train and when train arrived at Eluru around 22.35 hours and left at 22.37 hours, he noticed a person aged about 25 years jumped off from moving train, rolled and fell between platform and track and that he immediately stopped train, therefore, there is no liability on the part of railways to pay any compensation as deceased himself jumped from out of train.

4. Basing on these contentions, Tribunal conducted enquiry, during which, one witness is examined and eight documents were marked on behalf of claimants and one witness is examined and

three documents were marked on behalf of railways.

5. On a over all consideration of oral and documentary evidence, Tribunal negatived objection of railways and awarded compensation of Rs.4,00,000/-, aggrieved by which, present appeal is preferred.

6. Heard both sides.

7. Advocate for appellant submitted, from report of Guard it is clear that deceased jumped off from moving train and therefore, railways have no liability to pay any compensation. He submitted that the said incident cannot be treated as untoward incident under Section 123(c) of the Railways Act and it is an accident of self negligence in which deceased sustained injuries and later died, therefore, there is no liability on the part of appellant to pay any compensation and claims Tribunal failed to notice this aspect.

8. On the other hand, advocate for claimants submits that trial Court rightly granted compensation as per decision of the Supreme Court in and **Union of India v.Prabhakaran Vijayakumar and others**^[1] and appellant is liable to pay compensation.

9. Now the point that arises for consideration is:

Whether order dated 20.08.2008 in OAA No.301 of 2002 on the file of Railway Claims Tribunal, Secunderabad Bench is legal, proper and correct?

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POINT:

10. There is no dispute that deceased died on 18.12.2001 at Eluru railway platform. It is also not in dispute that deceased was a bonafide passenger with journey ticket No.38052247. In the inquest report, it is recorded that a ticket bearing No.38052247 from Samalkot to Eluru was found with the deceased and that the tribunal recorded a finding that deceased was a bonafide passenger. Now the simple point that has to be decided in this appeal is whether deceased died in an untoward incident and

whether his act of jumping off from out of running train would make the appellant liable to pay compensation.

11. In the decision referred to above, Hon'ble Supreme Court observed that if a person falls while trying to get into a moving train or trying to get down from a moving train resulting in death whether possess ticket or not is entitled for compensation. So, in view of principle laid down in the above referred Supreme Court decision, the objection of railways is not tenable and lower Tribunal rightly granted compensation treating the incident as an untoward incident as defined under Section 127(3)(c) of the Railways Act. I do not find any wrong in the approach of lower Tribunal and therefore, objection of appellant with regard to compensation granted to claimants is not tenable.

12. For these reasons, appeal is dismissed as devoid of merits. There shall be no order as to costs.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, shall stand closed.

JUSTICE S.RAVI KUMAR

Dated 22-07-2016

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HONOURABLE SRI JUSTICE S.RAVI KUMAR

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