

.HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.1103 of 2010

Dated 30-3-2016

Between:

Union of India, represented by its General Manager,
East Coast Railways Bhuvaneswar.

..Appellant.

And:

B.Bhagya Laksmi and others.

..Respondents.

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JUDGMENT:

This appeal is preferred against the order dated 27-
8-2010 in O.A.A.No.306 of 2005 on the file of Railway
Claims Tribunal, Secunderabad Bench at Secunderabad.

Respondents herein submitted application to the
Railway Claims Tribunal claiming compensation for the
death of B.Ramakrishna Gandhi in an untoward incident
on 24-5-2005 at Palasa Railway Station.

According to claimants on 24-5-2005, the deceased
and his brother Hiralal went to Berhampur station to see
off two other brothers who are traveling to Srikakulam in
train No.8403 Puri-Ahmedabad Superfast
Express to attend a marriage reception and his brothers
persuaded the deceased to accompany them and that a
ticket was purchased also and both the brothers secured
accommodation in S.2 coach and the T.T.E. asked the
deceased to go to another compartment and that the
deceased while getting down fell down at Palasa station
and died.

This claim was resisted by the railways contending
that the deceased had no journey ticket and he was only

having platform ticket issued at Berhampur and their enquiry reveals that the deceased was trying to get down from running train before it halted at Palasa station and due to his negligent act, he fell down and died and it is a self inflicted injury which resulted in death for which railways are not liable to pay any compensation. On these contentions, Claims Tribunal after framing issues conducted enquiry during which, two witnesses are examined and ten documents are marked on behalf of claimants and two witnesses are examined and three documents are marked on behalf of railways. On an overall consideration of oral and documentary evidence, Railway Claims Tribunal has negatived objection of the appellant herein and granted compensation of Rs.4,00,000/-, aggrieved by which, present appeal is preferred.

_____ Heard arguments.

_____ Advocate for appellant submitted that there is no dispute with regard to accident and also death of deceased. He also submitted that there is also no dispute that the deceased was having platform ticket issued by Berhampur Railway Station, and only contention of railways is that the deceased has no journey ticket to travel in train bearing No.8403 Puri-Ahmedabad Superfast Express and that he died due to his self negligence and that the railway has no liability to pay any compensation. He further submitted that Honourable Supreme Court and this Court in *UNION OF INDIA V. BABURAO KODDEKAR AND ANOTHER* (^[1]), *UNION OF INDIA v. PRABHAKARAN VIJAYA KUMAR AND OTHERS* (^[2]) and *BALAGONI SIVA PRASAD v. UNION OF INDIA REP. BY GENERAL MANAGER SOUTH CENTRAL RAILWAY, SECUNDERABAD* (^[3]) held that if a person falls from while getting into moving train or trying to get down from a moving train results death or injury, claimants are entitled

for compensation and the same cannot be treated as self inflicted injury and that a person having platform ticket is a bonafide purchaser entitled for compensation.

Now the point that would arise for my consideration in this appeal is whether the order of the tribunal is legal, correct and proper?

POINT:

As already referred above, there is no dispute with regard to the accident that took place on 24-5-2005 in which B.Ramakrishna Gandhi died. Before the claims tribunal, brother of deceased Heeralal is examined as A.W.2 who deposed that he and the deceased went to Berhampur railway station to see off their two brothers who are proceeding to attend a marriage reception and that the two brothers persuaded the deceased also to travel with them on that he bought ticket for the deceased from Berhampur to Srikakulam and all the three brothers boarded S.2 coach but the tribunal has not accepted the evidence of Heeralal to the extent that he bought a ticket for the deceased but accepted other part of evidence, from which it is clear that deceased held platform ticket issued by Berhampur Railway Station. The Claims Tribunal observed that the deceased might have gone to see off some relatives at Berhampur but could not get down of the train in time before it started, therefore, he continued upto next station i.e., Palasa and while getting down at Palasa station involved in an untoward incident, holding so, tribunal held that the deceased was a bonafide passenger and discarded the objection of the railways.

I do not find any wrong in the order of the claims tribunal. As rightly pointed out by advocate for appellant, this court in a decision reported in *UNION OF INDIA V. BABURAO KODDEKAR AND ANOTHER* (1st cited) held that a person having platform ticket is also a bonafide passenger. Here admittedly, deceased was having a

platform ticket issued by Berhampur station, therefore, the claims tribunal was right in discarding the objection of the railways.

The other objection of the appellant is that the incident is not an untoward incident and due to self negligence of the deceased, he died, therefore, it would fall under proviso to Section 124 A of the Railways Act i.e., self inflicted injuries and railways is not liable to pay any compensation.

As seen from the material, railways admitted that the deceased fell from train at Palasa. Its contention is that deceased tried to get down from the train even before it halted, therefore, it is self negligence of the deceased. Railways did not produce any evidence to show that somebody saw the deceased trying to get down before the train halted at the station. The contention of railways that the deceased was responsible for his own death, is not at all supported by any material evidence.

In *UNION OF INDIA v. PRABHAKARAN VIJAYA KUMAR AND OTHERS* (2nd cited), the Honourable Supreme Court held that a person falls while trying to get into a moving train or trying to get down from a moving train which resulted in death or injury is entitled for compensation and it did not fall under the exception to Section 124 A of Railways Act. The claims tribunal observed that the settled law by various High Courts and apex court that a fall of passenger while boarding the moving train cannot be a self inflicted injury unless it is proved by the railways with acceptable evidence. As already observed above, no one is examined on behalf of railways to prove the contentions raised by them in the counter. Therefore, the contention of railways that it is not an untoward incident and it is not an accident fall cannot be accepted and the claims tribunal has rightly negated objection of railways.

On a close scrutiny of the entire material on record, I

am of the view that Claims tribunal was right in awarding compensation treating the deceased as a bonafide passenger who died in an untoward incident of accidental fall and that there are no grounds to interfere with the order of the Railway Claims Tribunal.

For these reasons, this Appeal is dismissed. No costs.

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

JUSTICE

S.RAVI KUMAR

Dated 30-3-2016.

Dvs.

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Dated 30-3-2016

Dvs

[\[1\]](#) 2002 (4) ALD 843 (DB)

[\[2\]](#) (2008) 9 SCC 527

[\[3\]](#) 2008 (5) ALT 605