

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.899 of 2015

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellant-applicant challenging the order, dated 21.09.2015, passed in O.A.A. No.143 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the Tribunal dismissed the application of the appellants claiming a compensation of Rs.4,00,000/- for the death of Akella Satya Viswanadham (son of the appellant) in an untoward accidental fall from train No.6004 Mail Express at Km.No.819/10 in between Korukonda and Vizianagaram railway stations, while travelling from Visakhapatnam to Vizianagaram on 12.06.2006.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant-applicant would contend that the deceased-Akella Satya Viswanadham died in an untoward incident of accidental fall occurred on 12.06.2006 from the train No.6004 Mail Express at Km.No.819/10 in between Korukonda and Vizianagaram railway stations, while travelling from Visakhapatnam to Vizianagaram; the deceased had purchased a valid journey ticket to travel by train; A.W.1-mother of the deceased clearly and categorically stated in her evidence that the deceased travelled in the subject train by purchasing a valid journey ticket; A.W.2, who is brother-

in-law of the deceased, was present at the time of inquest and he deposed the same and in the inquest panchanama, it has come up that the deceased had fallen from the train No.6004 Mail Express; the Tribunal discarded the evidence of A.W.2 and erroneously held that the subject death was the outcome of the suicide; the Tribunal also disbelieved that the deceased was a *bona fide* passenger on train No.6004 Mail Express; the findings of the Tribunal are erroneous and not in consonance with the oral and documentary evidence; and ultimately, prayed to set aside the impugned order and grant compensation in favour of the appellant-applicant by allowing the appeal.

4. On the other hand, the learned counsel for the respondent-Railways would contend that the Tribunal had elaborately examined the D.R.M.'s report and other evidence on record and rightly held that the deceased had committed suicide and he was not a *bona fide* passenger and he had not accidentally fallen from the subject train; the Tribunal had given elaborate reasons in its order the manner how the dead body was found on the railway track and how the dead body was detected and reported to the railway authorities; the findings of the Tribunal are based on evidence and record; A.W.2 is brother-in-law of the deceased and he is a planted witness in this case to help the claim of the applicant; the Tribunal rightly determined the *lis*; there are no circumstances to interfere with the finding of the Tribunal; and ultimately, prayed to dismiss the appeal.

5. In view of the above submissions, the points that arise for determination in this appeal are as follows: -

1. Whether the deceased-Akella Satya Viswanadham was a *bona fide* passenger of train No.6004 Mail Express, and was travelling from Visakhapatnam to Vizianagaram on 12.06.2006?
2. Whether the deceased died in an untoward incident of accidental fall from the train No.6004 Mail Express?
3. Whether the impugned order dated 21.09.2015 passed by the Tribunal is liable to be set aside?

Points 1 to 3:

6. To substantiate the claim of the appellant-applicant, appellant-mother of the deceased deposed as A.W.1 and got examined the brother-in-law of the deceased as A.W.2 and also got marked Ex.A.1-attested copy of First Information Report, Ex.A.2-attested copy of Inquest Report, Ex.A.3-attested copy of Post-mortem Examination Report and Ex.A.4-Family Member Certificate. On behalf of the respondent-Railways, Head Constable, Government Railway Police was examined as R.W.1 and got marked Ex.R.1-Divisional Railway Manager's report.

7. A.W.2 is the brother-in-law of the deceased, who deposed about the deceased purchasing the ticket and dying in an incident of accidental fall from the train No.6004 Mail Express on 12.06.2006. He also deposed that he was present at the time of inquest under the original of Ex.A.2. Admittedly, no journey ticket was placed in this case.

8. To rebut the oral and documentary evidence adduced on behalf of the applicant, the respondent-railways got examined R.W.1-Head Constable, Government Railway Police, who deposed about the conduct of inquest report over the dead body. The Tribunal did not give credibility to the evidence of A.W.2

stating that A.W.2 did not accompany the deceased and not an eyewitness to the incident of alleged accidental fall and held that fake averments were made in the claim petition that the deceased had fallen from the train No.6004 Mail Express due to jerks, etc.

9. Ex.A.1 is the attested copy of F.I.R., which was registered on the basis of message received from the Station Superintendent, Vizianagaram, wherein it is stated that the driver of BOBN No.OEC 32 reported that a male dead body was lying on down home signal of Vizianagaram. Under Ex.A.2-attested copy of inquest report, panchas recorded their opinion that the subject death might be a fall from the train. As per Ex.A.2-inquest report, the dead body was severely mutilated and the head was totally severed from the trunk and was lying away from the trunk in a smashed condition. It further shows that the head was lying in between the lines of the track with brain matter coming out and scattered. The shoes of the deceased were also found lying at different places in between the lines of the track and the hand bag of the deceased was also lying away from the body. However, hand bag of the deceased was intact. Further, Ex.A.3-postmortem examination report reflects that the head was decapitated from the trunk and part of the skull was lost and the brain matter and spinal column severed and there were multiple fractures of the ribs. As per Ex.A.3-inquest report, the dead body was in a severe condition with different parts lying at different places in between lines of the track. These two documents clearly demonstrate that it was not a case of fall from

a running train. Head coming in between the track would not arise in case of a fall from a running train. Had it been fallen from the running train, there cannot be more severe and grievous injuries. Further, the dead body of the deceased could have been found by the side of the track.

10. As per the evidence of R.W.1, the dead body was found in two pieces. Further, no ticket was found from the dead body, though the hand bag of the deceased was intact. As per the report given by the Divisional Railway Manager's report under Ex.R.1, the deceased was not a *bona fide* passenger and there was no accidental fall from the subject train. Further, the trunk and the head were severed from the dead body, it indicates the running of the wheels of the train in between them. The hand bag of the deceased was found near the dead body intact. Had the hand bag fallen along with the deceased, certainly, the contents of the hand bag would have been scattered at the place of accident. Having elaborately examined all these aspects, the Tribunal concluded that the deceased committed suicide and also held that the subject death would not fall under Section 123(c) of the Indian Railways Act, 1989. These findings are based on the material placed on record. The Tribunal did not give any credibility to the evidence of A.W.2. The circumstances of the case clearly demonstrates and establishes that A.W.2 brother-in-law of the deceased is pressed into service from the beginning, i.e., on the day the dead body was found till he was examined before the Tribunal to lay a false claim. No importance can be given to the evidence of A.W.2.

There is no infirmity in the impugned order. Therefore, the appeal is devoid of merit and it is liable to be dismissed.

11. In the result, the appeal is dismissed, confirming the order, dated 21.09.2015, passed in O.A.A. No.143 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. Pending Miscellaneous Petitions, if any, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

8th November, 2018

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