

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.514 of 2016

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellants-applicants challenging the order, dated 22.04.2016, passed in O.A.II(U) No.78 of 2009 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition filed by the appellants-applicants claiming compensation of Rs.4,00,000/- for the death of the deceased-Battula Venkateswara Rao in an alleged untoward incident of accidental fall from a running train, was dismissed.

2. Heard the learned counsel for the appellants-applicants and the learned Standing Counsel for the respondent-Railways and perused the record.

3. The Tribunal, while dealing with the subject matter, had framed the following issues:-

1. Whether the application is maintainable?
2. Whether the applicants are dependents of the deceased?
3. Whether the deceased was a bona fide passenger of the train in question while travelling from Samalkot to Ananthapur?
4. Whether the deceased died as a result of an untoward incident of accidental fall from the train?
5. Whether the applicants are entitled to the compensation as claimed by them in the application?
6. To what relief?

4. As seen from the evidence on record, Ex.A3-two journey tickets were found. It is the case of the applicants that the

deceased-Battula Venkateswara Rao and one S.Vishnu Vardhan were travelling together from Samalkot to Anantapur. The Tribunal had not examined the said tickets and recorded its finding. Whether the subject tickets were meant to travel in Prashanthi express train No.8463 from Samalkot to Anantapur on 05.02.2009 or not, the same is required to be examined and finding has to be recorded by the Tribunal.

5. While dealing with the subject matter, the Tribunal recorded its conclusion as follows:

“In these circumstances, it cannot be concluded that the ticket belongs to the deceased and that he was a *bona fide* passenger on the date of incident and thus, these issues are answered accordingly.”

6. The applicants have filed two journey tickets and they were marked as Ex.A3. According to the case of the applicants, the deceased and his friend-S.Vishnu Vardhan travelled by train No.8463 on 05.02.2009. When Ex.A3-two tickets are recovered, the Tribunal ought to have examined whether the deceased and his friend-S.Vishnu Vardhan travelled in train No.8463 on 05.02.2009 from Samalkot to Anantapur. There is no clear finding to that effect. Further, the Tribunal also recorded that the so-called companion of the deceased was not examined on behalf of the applicants.

7. Learned counsel for the applicants would contend that since it is a beneficial legislation, the applicants are ready to examine S.Vishnu Vardhan to establish their case. Under these circumstances, it is appropriate to state that since the Tribunal had not recorded clear findings with regard to the issues framed by it. All issues are required to be answered. Further, an opportunity is

required to be given to the applicants and also the respondent/railways to put forth their case.

8. In the result, the appeal is allowed and the order dated 22.04.2016, passed in O.A.II(U) No.78 of 2009 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside and the O.A. is restored to file for disposal afresh, in accordance with law. While dealing with the matter, the Tribunal shall provide an opportunity to both sides to adduce oral and documentary evidence, if any. The Tribunal shall preferably dispose of the said O.A.II(U) within a period of three months from the date of receipt of the records.

Pending miscellaneous petitions, if any, shall stand closed. No costs.

Date: 06.12.2018
ssp

Dr. SHAMEEM AKTHER, J

