

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.437 of 2016

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short 'Act'), is filed by the appellants - applicants challenging the order, dated 16.03.2016, passed in O.A. II (U) No.305 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short 'Tribunal'), whereby, the claim petition filed by the appellants - applicants for a compensation of Rs.8,00,000/- for the death of deceased - Karri Appala Reddy in an alleged untoward incident of accidental fall from a running train, was dismissed.

2. Heard Sri M. Lakshma Reddy, learned counsel for the appellants and Sri P. Bhaskar, learned standing counsel for Railways appearing for the respondent.

3. Perused the evidence on record, both oral and documentary.

4. The appellants herein are applicants in O.A. (II) U No.305 of 2008 before the Tribunal, while respondent - Railways is arrayed as such. For the sake of convenience, the parties herein are referred to as they were arrayed in the foresaid O.A. before the Tribunal.

5. The learned counsel for the applicants would contend that the deceased - Karri Appala Reddy was a *bona fide* passenger of Train No.3352 Bokaro Express having reserved his ticket under Tatkal

quota to travel from Chennai to Visakhapatnam, that the deceased died in an untoward incident of accidental fall from the subject train due to speed and jerks of the train on the intervening night of 14/15.07.2008. The Tribunal erroneously dismissed the claim application of the applicants, and ultimately prayed to set aside the impugned order and grant compensation as prayed for by allowing the appeal.

6. On the other hand, the learned standing counsel for Railways would submit that there was no proper identification of the dead-body; nothing was recovered from the possession of the dead-body. The dead-body was recovered on 28.07.2008 from Penna River. Pay-slip said to have been planted. There is no iota of evidence to substantiate that the deceased was a *bona fide* passenger of the subject train. Further, the deceased did not board the subject train on the intervening night of 14/15.07.2008 as per the D.R.M. report. The Tribunal rightly considered the said evidence and dismissed the application, and ultimately prayed to dismiss the appeal.

7. In view of the above submissions made by both sides, the following points that arise for determination in this appeal:

- i. Whether the deceased - Karri Appala Reddy was a *bona fide* passenger of Train No.3352 Bokaro Express in ST-5 Coach, and travelled from Chennai to Visakhapatnam on 14.07.2008?

- ii. Whether the deceased died in an untoward incident of accidental fall from the said Train on the intervening night of 14/15.07.2008 due to jerks and jolts of the subject train?
- iii. Whether the impugned order is liable to be set aside?
- iv. To what result?

8. To substantiate the claim, the wife of the deceased herself deposed as AW.1 and examined another witness as AW.2 and got marked Exs.A.1-attested copy of first information report, Ex.A.2-attested copy of inquest report, Ex.A.3-attested copy of post-mortem report, Ex.A.4-death certificate, Ex.A.5-family member certificate, Ex.A.6-attested copy of Case Diary Part-II and Ex.A.7-attested copy of final report. On behalf of respondent - Railways, though no witness was examined, but marked Ex.R.1-DRM report along with reservation chart of Train No.3352, dated 14.07.2008.

Point Nos.(i) and (ii):-

9. When the dead-body detected on 28.07.2008, inquest was conducted, but no incriminating material was recovered from the dead-body either to identify the dead-body or to hold that the deceased had travelled by any train before falling in Penna River. The travel chart of the subject train, by which the deceased was travelling on the intervening night of 14/15.07.2008, is filed before the Tribunal, wherein there is no mention of name of the deceased travelling in the subject train on the intervening night of 14/15.07.2008. So, the

Tribunal held that the so-called deceased was not *bona fide* passenger and did not die in an untoward incident of accidental fall from the subject train on the intervening night of 14/15.07.2008. The Tribunal had elaborately dealt with all the contentions raised herein, which do not merit consideration. In the circumstances of the case, it cannot be held that the impugned order suffers from any infirmity. Accordingly, these points are answered against the applicants and in favour of the respondent - Railways.

Point No.(iii):-

10. The Tribunal had elaborately dealt with the contentions and the evidence on record and rightly reached the conclusion dismissing the claim petition. There is no infirmity in the impugned order. There is nothing to take a different view. Hence, the appeal is devoid of merit and is liable to be dismissed.

Point No.(iv):-

11. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the order, dated 16.03.2016, passed in O.A. II (U) No.305 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous applications, if any, pending in the present appeal, stand closed.

Dr. SHAMEEM AKTHER, J

December 20, 2018

Mgr

