

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.165 of 2017

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellants-applicants, challenging the order, dated 10.01.2017 in O.A.(IIU) No.12 of 2010 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby the claim petition filed by the appellants-applicants claiming compensation for the death of one Nali Prathap (hereinafter referred to, as 'the deceased') by dash by train no.406 (hereinafter referred to, as 'the subject train') while crossing the railway track, on 17.7.2008 at 23.00 hours, was dismissed.

2. Heard both sides. Perused the record.

3. For convenience, the parties are hereinafter referred to, as per their array before the Tribunal.

4. The learned counsel for the applicants would contend that the deceased died in an untoward incident of accidental fall while crossing the platform no.1 of Phirangipuram railway station to board train no.406; that he was having valid journey ticket; that the Tribunal erroneously held that the death of the deceased falls under

proviso to Section 124A of the Railways Act, 1989 and declined compensation to the claimants, and ultimately prayed to allow the appeal granting the compensation.

5. On the other hand, the learned counsel for the Railways supported the impugned order passed by the Tribunal and would contend that though tickets were found with the deceased, the injuries suffered by him were self-inflicted, and the Tribunal rightly dismissed the claim application; that there is no infirmity, and ultimately prayed to dismiss the appeal.

6. There is no dispute with regard to possession of a valid journey ticket bearing No.72881198 by the deceased to travel from Phirangipuram to Nandyal. The only point that arises for determination is whether he died in an 'untoward incident' as defined under Section 123 (c) of the Railways Act, 1989.

7. To establish the manner in which the deceased met with the accident, railways examined R.W.1, Loco Pilot of the subject train on 17.07.2009. He stated that he was on duty on the subject train on 17.07.2009; that at 18.26 hours, while the subject train was rolling into the platform no.1 of Phirangipuram railway station, one male person, aged 34 years, suddenly got down from platform no.1 to proceed towards off-side, and when he was crossing the

railway track, he was hit by engine of the subject train as a result of which he died on the spot due to run over by train. It is his further evidence that he immediately stopped the train and informed the train Guard on his walkie talkie; that the Guard attended the spot and found the said person dead; that head and neck of the deceased were cut off. R.W.2 is Guard of the subject train. He corroborated the evidence of R.W.1 on all material particulars.

8. As per the applicants, the deceased wanted to board the subject train on 17.07.2009 to go to Nandyal from Phirangipuram. Journey tickets were found with the dead body of the deceased. The same is mentioned in Ex.A2 inquest report. When the deceased wanted to board the subject train and when the train was rolling into platform no.1, there was no reason for him to get down from platform no.1 and cross the railway track. The deceased would have stopped and waited at platform no.1 and he could have got into the subject train after it was stationed. There is no reason for the deceased to get down from the platform no.1 and cross the railway track to board the subject train from off-side. The act of the deceased establishes that he wanted to commit suicide coming under the train and he had done so. Therefore, the injuries suffered by the deceased are out of his sheer negligence. It does not amount to an untoward incident as defined under

Section 123 (c) of the Railways Act, 1989. The Tribunal has appreciated the evidence on record in right perspective and arrived at correct findings. There is no infirmity. The points are held in favour of the railways and against the applicants. The appeal is devoid of merit and is liable to be dismissed.

Point No.4:

9. In the result, the C.M.A. is dismissed.

There shall be no order as to costs of this appeal. Pending Miscellaneous Petitions, if any, in the appeal shall stand closed.

30.11.2018
DRK

Dr. SHAMEEM AKTHER, J



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