

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.230 of 2013

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the Union of India, represented by the General Manager, South Central Railway, Secunderabad, challenging the order, dated 14.12.2012 in O.A.A. No.217 of 2007 passed by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the Tribunal granted compensation of Rs.4,00,000/- in favour of the respondents-applicants for the death of one Shaik Karimulla Sheriff (hereinafter referred to, as 'the deceased') in an untoward incident of accidental fall from train No.478 passenger (hereinafter referred to, as 'the subject train') at Kolakalur railway station on 09.11.2006 when he was travelling by the subject train from Vijayawada to Kolakalur.

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 Railways would contend that the no untoward incident of accidental fall

occurred from the subject train on 09.11.2006; that the Tribunal granted excess interest on the compensation awarded, and that the impugned order is unsustainable under law, and ultimately prayed to set aside the impugned order and dismiss the claim application.

5. On the other hand, the learned counsel for the applicants would contend that there is ample evidence to substantiate that the deceased was *bona fide* passenger of the subject train and he died in an untoward incident of accidental fall from the said train on 09.11.2006; that the Tribunal is justified in granting the compensation of Rs.4,00,000/- and there is no infirmity to take a different view; and ultimately, prayed to dismiss the appeal.

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

- 1) Whether the deceased was a *bona fide* passenger of subject train and died in an untoward incident of accidental fall from the subject train on 09.11.2006 at Kolakalur railway station ?
- 2) Whether the impugned order passed by the Tribunal is liable to be modified or set aside ?
- 3) To what relief ?

Points 1 to 3:

7. To substantiate the claim of the applicants, applicant no.2 deposed as A.W.1 and examined one Syed Rahim as A.W.2, and marked Ex.A1-true copy of FIR;

Ex.A2-true copy of post mortem examination report; Ex.A3-certified copy of journey ticket; Ex.A4-death certificate of the deceased and Ex.A5-proper person certificate.

On behalf of railways, R.W.1-Head Constable of railway police was examined and Ex.R1-inquest report; Ex.R2-final report and Ex.R3-statement of Shaik Jani, were got marked.

8. It is the specific case of the applicants that the deceased was a *bona fide* passenger of subject train on 09.11.2006 and died in an untoward incident of accidental fall from the said train in Kolakalur railway station. The evidence adduced on behalf of the applicants reveals that on 09.11.2006, the deceased boarded the subject train with a valid journey ticket to travel from Vijayawada to Kolakalur, and when the train was about to reach Kolakalur, the deceased who was standing near door, had accidentally fallen down due to jerks and speed of the train, suffered injuries at 7.00 PM and died on the spot. A.W.2 specifically deposed about possessing valid journey ticket by the deceased on that day and his death in an untoward incident of accidental fall from the subject train. There is no evidence to substantiate that the deceased was responsible for the injuries suffered by him. There is no iota of evidence to substantiate that the injuries suffered by the deceased were self-inflicted. There is also no record to

substantiate that it is a case of suicide. The Tribunal had elaborately dealt with the evidence on record and held that the subject case does not fall under exceptions in Section 124A of the Railways Act, 1989, but it is an untoward incident as defined under Section 123 (c) of the Act and granted compensation with *pendente lite* interest @ 6% per annum and *post lite* interest @ 9% per annum. There is nothing to take a different view.

9. In the result, the appeal is dismissed, confirming the order, dated 14.12.2012 in O.A.A. No.217 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

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

20.12.2018
DRK

Dr. SHAMEEM AKTHER, J

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



CIVIL MISCELLANEOUS APPEAL No.230 of 2013

20.12.2018

DRK