

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.155 OF 2010

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 04.12.2009, in O.A.A.No.266 of 2000 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, (for short, 'the Tribunal'), whereunder and whereby, the claim of the respondents/applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Sections 124 and 125 of the Railways Act, 1989 with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased Marisa Venkat Rao in an untoward incident of railway accident that took place on 21.11.2000 was allowed.

2. Heard the learned Standing Counsel for the appellant/Railways and the learned counsel for the respondents/applicants. Perused the material on record.

3. Learned Standing Counsel for the appellant/Railways would contend that this appeal is filed on two grounds i.e., that the deceased Marisa Venkat Rao was not a *bona fide* passenger and that he was not holding a senior citizen ticket on the date of journey; that as per the pleadings, the deceased Marisa Venkat Rao was 59 years old and therefore, the finding of the Tribunal that the deceased Marisa Venkat Rao was possessing valid journey ticket is liable to be set aside and the applicants are not entitled for compensation and ultimately, prayed to set aside the impugned order and allow the appeal.

4. On the other hand, learned counsel for the respondents/applicants would contend that the deceased Marisa Venkat Rao was a senior citizen and ample documentary material is placed on record to substantiate the same; that the Tribunal rightly held that the deceased Marisa Venkat Rao was a senior citizen and accidentally fell from train No.7007 Godavari Express travelling from Visakhapatnam to Elamanchili on 21.11.2000 and rightly granted the compensation; that there is no infirmity in the impugned order and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, the points that arise for determination are:

- “1. Whether the deceased Marisa Venkat Rao was a senior citizen as on 21.11.2000 and whether he was a bona fide passenger possessing valid journey ticket to travel in Train No.7007 Godavari Express from Visakhapatnam to Elamanchili on 21.11.2000? and***
- 2. Whether the deceased Marisa Venkat Rao died as a result of an untoward incident of accidental fall from the said train??”***

6. **POINT No.1:-**

In the oral evidence and in the Inquest Panchanama, it has come up that the deceased Marisa Venkat Rao was possessing a journey ticket bearing No.10366117 to travel on 21.11.2000 in train No.7007 Godavari Express from Visakhapatnam to Elamanchili. In case the passenger possessing senior citizen concession ticket fails to show his age proof, the Ticket Collector is entitled to collect the difference of fare with penalty, if any. Therefore, the deceased Marisa Venkat Rao possessing journey

ticket cannot be treated as ticketless passenger. The Tribunal had elaborately dealt with the issue and answered in favour of the appellant. There is no infirmity in the impugned order.

7. **POINT No.2:-**

The other contention of the learned Standing Counsel for the Railways is that the deceased Marisa Venkat Rao had not fallen accidentally from train No.7007 Godavari Express travelling from Visakhapatnam to Elamanchili on 21.11.2000. There is record to show that the deceased Marisa Venkat Rao had accidentally fallen from the said train. There is specific admission to that effect in the written statement filed by the Railways. Under Ex.A-5 – Inquest Panchanama also, the same is mentioned. So, it can be safely concluded that the deceased Marisa Venkat Rao had accidentally fallen from train No.7007 Godavari Express travelling from Visakhapatnam to Elamanchili on 21.11.2000. Under these circumstances, granting of compensation of Rs.4,00,000/- by the Tribunal to the applicants cannot be faulted. There is no infirmity in the impugned order. The appeal is devoid of merits and is liable to be dismissed.

8. Accordingly, the appeal is dismissed. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 01.11.2018
AMD

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



C.M.A.No.155 OF 2010

Date: 01.11.2018

AMD