

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.1011 OF 2013

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 01.10.2013, in O.A.A.No.429 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, (for short, 'the Tribunal'), whereunder and whereby, the claim of the appellants/applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act, 1989 with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased S.Solomon in an untoward incident of accidental fall from running train was dismissed.

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

3. Learned counsel for the appellants/applicants would submit that the deceased S.Solomon was a retired railway employee and holding railway pass; by showing said pass, the deceased purchased journey ticket to travel from Chennai to Coimbatore; that initially, the deceased travelled by train No.2760 from Secunderabad to Coimbatore on 04.12.2007 and from there, he boarded train No.0625 on 05.12.2007 to travel to Chennai and he accidentally fell down from the said Train No.0625 on the early hours of 06.12.2007, sustained injuries and succumbed to the injuries; that the Tribunal had held that the appellants/applicants were dependents on the deceased, but it held that the deceased was not a *bona fide* passenger, as the appellants/applicants did not produce railway pass

though they produced journey ticket; that without answering the other issues, the Tribunal dismissed the application, which is erroneous and ultimately prayed to set aside the order and award compensation as per the Schedule prescribed under the Rules.

4. On the other hand, learned Standing Counsel/Railways would submit that the appellants/applicants did not file the pass to undertake the subject journey by the deceased; that the Tribunal having rightly considered all the issues, dismissed the application for grant of compensation; that there is no infirmity in the impugned order so as to modify the same and ultimately prayed to dismiss the appeal.

5. In view of submissions made by both sides, the following points arise for determination:

1. Whether the deceased S.Solomon was a *bona fide* passenger of Train No.0625 on 06.12.2007?
2. Whether the deceased died in an untoward incident of accidental fall from the said train?
3. Whether the impugned order is liable to be set aside?
4. To what relief?

6. **POINT Nos. 1 and 2:**

To substantiate the case of the appellants/applicants A.W.1 was examined and Ex.A.1-true copy of FIR, Ex.A.2-True copy of inquest report, Ex.A.3-true copy of PME report, Ex.A.4-original journey ticket, Ex.A.5-true copy of reservation ticket, Ex.A.6-Death certificate, Ex.A.7-Family Members Certificate and Ex.A.8-Pensioners ID card of the deceased were marked. On behalf of the Railways, no oral or documentary evidence was adduced.

7. The appellants/applicants gave details of their journey tickets. As per the details given by the appellants/applicants, six persons were entitled to travel by using the railway pass. The appellants marked Ex.A.4-original journey ticket, which reveals that six persons were allowed to travel from Chennai to Coimbatore. Because the railway pass was not filed before the Tribunal, the Tribunal dismissed the application holding that the deceased was not a *bona fide* passenger of the subject train.

8. In the course of submissions, it has come to light that the deceased was a retired railway employee and was given railway pass and showing the same, he obtained journey ticket. Ex.A.4 clearly demonstrates that the deceased and his family members are entitled to travel by the subject train. There is specific evidence of A.W.1, who was also undertaking journey along with the deceased, that the pass was misplaced along with some papers and they were in disturbed situation due to accidental death of her father. Further, it is made clear that no pass is required to be filed for grant of compensation, particularly, when the railways have not disputed the validity and genuineness of Ex.A.4-ticket. Under these circumstances, the deceased was a *bona fide* passenger of train No.0625 to travel from Chennai to Coimbatore. Further, as per the evidence of A.W.1 and the documents marked, the deceased commenced his journey on 04.12.2007 initially by train No.2760 from Secunderabad to Chennai and from there he travelled to Coimbatore by train No.0625 and while travelling he accidentally slipped and fell down from the said train between Tirupattur and Molakarampatty Railway Station at KM No.222/20-22 in the early hours of 06.12.2007 and succumbed to injuries. The F.I.R registered

in Crime No.250 of 2007, the inquest report and the post-mortem examination report substantiate the accidental fall. Therefore, it can safely be concluded that the deceased S.Soloman died in an untoward incident of accidental fall from train No.0625 between Tirupattur and Molakarampatty railway stations on the early hours of 06.12.2007. Under these circumstances, the impugned order is liable to be set aside

9. In the result, the appeal is allowed and the appellants/applicants are awarded a compensation of Rs.8,00,000/-, in view of the 2016 amendment made to the Schedule to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. The respondents-Railways is directed to deposit the awarded compensation of Rs.8,00,000/- before the Tribunal within a period of three (03) months from the date of receipt of a copy of this order, failing which, the appellants-applicants are entitled for interest @ 6% per annum on the said amount, from the date of this order till realisation. Out of the compensation awarded, appellant No.1 is entitled to 50%, and the remaining 50% shall be shared by appellants 2 and 3 equally.

Miscellaneous petitions pending, if any, in this appeal shall stand closed. There shall be no order as to costs.

DR.JUSTICE SHAMEEM AKTHER

NOVEMBER 12, 2018
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Date: 12.11.2018

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