

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.962 OF 2014

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 08.07.2013, in O.A.A.No.312 of 2007 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 Sections 124-A and 125 of the Railways Act, 1989 with regard to grant of compensation of Rs.4,00,000/- for the death of the deceased Smt P.Siva Parvathy in an untoward incident of railway accident that took place on 14.08.2007, was dismissed.

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

3. Learned counsel for the appellants/applicants would contend that on 14.08.2007, early morning, when the deceased Smt P.Siva Parvathy was returning after attending the calls of nature, she was hit by a goods train, which amounts to an untoward incident of railway accident; that she wanted to board a train along with her husband to travel from Ongole to Tirupati; that there is no dispute with regard to the factual aspects of the case; that the only dispute is whether the manner in which the deceased Smt P.Siva Parvathy was hit by a goods train amounts to

an untoward incident of railway accident or not; that the Tribunal erroneously dismissed the claim application and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the respondent/Railways would contend that the deceased Smt P.Siva Parvathy was responsible for the occurrence of the subject accident and the injuries suffered by her were self inflicted ones; that the Tribunal had elaborately dealt with the application of relevant provisions under the Railways Act, 1989 and rightly dismissed the application; 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 point that arises for determination is:

“Whether the death of the deceased Smt P.Siva Parvathy would fall within the definition given under Section 123(c) of the Railways Act, 1989 i.e., untoward incident?”

6. **POINT:-**

The specific case of the applicants is that the deceased P.Siva Parvathy along with her husband reached Ongole Railway Station and purchased one combined journey ticket bearing No.35518332 to travel from Ongole to Tirupati and was waiting at platform No.3 for arrival of the train. At that time, the deceased Smt P.Siva Parvathy wanted to attend the calls of nature. She had crossed the railway track and attended the calls of nature. When she was returning by crossing the railway track at platform No.3 and she was at the edge of the platform and then, she was hit by a goods train passing through that line.

7. Firstly, the deceased Smt P.Siva Parvathy ought not have gone to attend the calls of nature by crossing the railway track, so also, she ought not have returned by crossing the railway track. Washroom facilities are provided in all railway stations. She could have utilised those facilities in Ongole Railway Station. She was aware of the consequences of crossing the railway track. The injuries suffered by the deceased Smt P.Siva Parvathy, which resulted in her death, were self inflicted ones. The Tribunal had elaborately dealt with this aspect and ultimately held that the subject death was not an untoward incident of railway accident and would not fall within the definition of 'untoward incident' under Section 123(c) of the Railways Act, 1989, and accordingly, declined to grant compensation. There is no infirmity in the impugned order. There is nothing to take a different view. The appeal is devoid of merit 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 : 30.11.2018
AMD

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