

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.909 OF 2015

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 09.12.2014, in O.A.II (U) No.82 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 consequent on the death of the deceased Murala Uma Maheswara Rao in an untoward incident of railway accident 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 was possessing complimentary pass to travel by Train No.7487 Tirumala Express on 12.08.1999 along with his wife, which was valid upto 20.08.1999; that merely because the deceased did not incorporate the details of the journey and subscribe the signature on Ex.A.2-pass, the Tribunal erroneously held that the deceased was not a *bona fide* passenger and an order was passed on this score only without answering the other issues and ultimately prayed to set aside the same.

4. On the other hand, learned Standing Counsel for respondent/Railways would submit that the defect in mentioning of details of journey is curable by collecting penalty.

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

Whether the deceased Murala Uma Maheswara Rao was a *bona fide* passenger of Train No.7487 Tirumala Express?

6. **POINT:**

It is brought to the notice of this Court by learned Standing Counsel for Railways that the defect in not mentioning the details of journey in, and subscribing signature of the deceased on, Ex.A.2-pass can be curable by way of collecting penalty in the course of journey. As the deceased met with an accident and succumbed to those injuries on 12.08.1999 itself, he could not pay penalty. Non-mentioning of the details and signature on Ex.A.2-pass are not fatal, as it can be rectified by paying penalty. Therefore, it is held that the deceased was a *bona fide* passenger. Therefore, the issue is answered, accordingly, in favour of the applicants. Since the Tribunal did not decide the other issues, the matter is remanded to the Tribunal for passing appropriate orders.

7. In the result, the impugned order is allowed setting aside the order, dated 09.12.2014, in O.A.II (U) No.82 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, and O.A.A. is restored to the file of Tribunal to answer unanswered issues, within a period of three months from the date of receipt of a copy of this Judgment.

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

DR.JUSTICE SHAMEEM AKTHER

NOVEMBER 16, 2018
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Date: 16.11.2018

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