

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.210 of 2017

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellants-applicants, challenging the order, dated 23.01.2017 in O.A.(IIU) No.373 of 2009 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby the claim petition filed by the appellants-applicants claiming compensation for the death of one Dornipati Rama Hussaini, s/o. Chinna Hussaini (hereinafter referred to, as 'the deceased') in an untoward incident of railway accident on 20.10.2007 while travelling from Guntur to Nandyal, was dismissed.

2. Heard both sides. Perused the record.

3. For convenience, the parties are hereinafter referred to, as per their array before the Tribunal.

4. There is no dispute with regard to the deceased possessing a valid journey ticket to travel by train no.406 Guntur to Secunderabad passenger from Guntur to Nandyal. Case of the applicants is that when the subject train halted at Somidevipalli railway station, the deceased and his grand father went to fetch water from nearby place, and while returning to board the train, the deceased was hit by a different train no.7226 Express, and it amounts to an untoward incident of accidental fall, and that the applicants, being his dependants, are entitled for compensation under Section 124A of the Railways Act, 1989.

5. As per the material placed, when train no.406 Guntur to Secunderabad passenger, by which the deceased and his grand father were travelling, was stopped for getting signal at Somidevipalli railway station, the deceased came out of the train and while crossing the other track, came under the other train No.7226 Express, suffered injuries and succumbed to the same. As per the record, the story set up by the applicants that the deceased went to fetch water is false. The deceased was not a *bona fide* passenger of the train by which he was run over and he did not die in an untoward incident defined under Section 123 (c) of the Railways Act, 1989. The Tribunal elaborately dealt with these aspects and rightly concluded against the applicants. There is no infirmity. The appeal is devoid of merit and is liable to be dismissed.

6. In the result, the C.M.A. is dismissed.

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

Dr. SHAMEEM AKTHER, J

14.12.2018
DRK

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