

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.403 OF 2009

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railways Claims Tribunal Act, 1987 is directed against the order, dated 30.01.2009, in O.A.A.No.370 of 2003 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, (for short, 'the Tribunal'), whereunder and whereby, the claim of the appellant/applicant under Section 16 of the Railway Claims Tribunal Act, 1987 read with Sections 124-A and 125 of the Indian Railways Act, 1989 (for short, 'the Act') with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased Gowthampalli Babu in a railway accident that took place on 15.10.2003 was dismissed.

2. Heard the learned counsel for the appellant/applicant and Smt Ch.Lakshmi Kumari, learned Standing Counsel for the respondent/Railways.

3. Learned counsel for the appellant/applicant would contend that the applicant is the real sister of the deceased Gowthampalli Babu; that though the applicant was married to one Kondannagari Venkata Muni Ratnam and their marriage was dissolved in the year 1998 i.e., prior to the occurrence of the subject death of the deceased Gowthampalli Babu in an untoward incident and there is a certificate under Ex.A-6 to establish the divorce; that the applicant is depending on the deceased Gowthampalli Babu and she is entitled for compensation under the provisions of the Act;

that the order impugned passed by the Tribunal is erroneous and ultimately, prayed to allow the application.

4. On the other hand, Smt Ch.Lakshmi Kumari, learned Standing Counsel for the respondent/Railways, would contend that the ground of divorce was introduced by the applicant as an afterthought and Ex.A-6 was not considered by the Tribunal and rightly rejected the same; that there are also other circumstances to hold that the applicant was not a divorcee; that the Tribunal is justified in dismissing the claim and there are no circumstances to interfere with the impugned order and hence, prays to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, the short point that falls for determination is:

“Whether the appellant/applicant is entitled for compensation on account of the death of her deceased brother - Gowthampalli Babu as a dependant?”

6. **POINT:-** As per the record, there is no dispute with regard to the death of the deceased Gowthampalli Babu in an untoward railway accident that occurred on 15.10.2003. The only dispute is with regard to the entitlement of compensation as a dependant of the deceased Gowthampalli Babu. The Tribunal, while dealing with the subject matter, had framed an issue as to whether the applicant was a dependant of the deceased or not and elaborately dealt with the same. Though it is contended by the learned counsel for the applicant that the applicant took divorce on 10.03.1998 and filed Ex.A-6 to prove the same, in the application filed by the applicant for compensation, she mentioned that she

was the wife of one Kondannagari Venkata Muni Ratnam. It is evident from the record that she along with her husband Kondannagari Venkata Muni Ratnam was present at the time of inquest of her deceased brother. The Tribunal had also elaborately dealt with the application of Section 123(b) of the Railways Act, 1989. Under any of the clauses mentioned therein, a married sister is not a dependant of the deceased and not entitled for compensation in a railway accident. The applicant, however, mentioned in the claim application that she is the wife of Kondannagari Venkata Muni Ratnam. It is also pertinent to state that the marriage between them has to be dissolved in accordance with the procedure established by law, but no such evidence is available. Ex.A-6 could not satisfy the said stipulation. In view of that, the Tribunal rightly held that the applicant was not the dependant of the deceased Gowthampalli Babu and she is a married woman and rightly denied the compensation. There are no circumstances to take a different view and grant the relief as prayed. The appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 24.09.2018
AMD

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