

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.691 of 2012

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 17.04.2012, passed in O.A.A.No.191 of 2004 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition filed by the appellants-applicants claiming a compensation of Rs.4,00,000/- for the death of the deceased-S.Venkataramana in an untoward incident of accidental fall from a running train, was dismissed.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellants-applicants would contend that there is ample oral and documentary evidence on record to substantiate that the deceased-S.Venkataramana had accidentally fallen from train No.7481 Tirumala Express on 04.11.2003, suffered injuries and succumbed to the same. The Tribunal had not appreciated the oral and documentary evidence in proper perspective and erroneously dismissed the claim petition and ultimately prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, the learned Standing Counsel for the respondent-Railways would contend that there is no iota of evidence to establish that the deceased-S.Venkataramana suffered fatal injuries and succumbed to the same in an

untoward incident of accidental fall from a running train. There is ample evidence on record to show that no injuries were found on the dead body of the deceased. There is no mention of accidental death in the PME report of the deceased and in the inquest panchanama. The claim petition was filed with false and frivolous allegations. The Tribunal rightly dismissed the claim petition. There are no merits in the appeal and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. In view of the above rival contentions, the points that arise for consideration in this appeal are as follows:-

1. Whether the deceased-S.Venkataramana was a *bona fide* passenger of the train No.7481 Tirumala Express travelling from Elamanchili to Visakhapatnam on 03.11.2003?
2. Whether the deceased-S.Venkataramana died in an untoward incident of accidental fall from running train No.7481 Tirumala Express on 03.11.2003?

Points:-

6. To substantiate that the deceased-S.Venkataramana was a *bona fide* passenger of the train No.7481 Tirumala Express travelling from Elamanchili to Visakhapatnam on 03.11.2003, the appellants-applicants got examined A.W.1 and A.W.2 and got marked Exs.A.1 to A.5. On behalf of the respondent-Railways, R.W.1 and R.W.2 were examined and Exs.R.1 and R.2 were marked.

7. R.W.2-Dr.Narayana Rao deposed that he was working as Assistant Professor, Andhra Medical College, Visakhapatnam, since 1996 till his retirement on 31.05.2007; on 04.11.2004, he

received a requisition from the Sub-Inspector of Police, GRP, Tuni, East Godavari District, to conduct Post-mortem examination on the dead body of the deceased-S.Venkataramana; Post-mortem examination commenced at 01:15 PM and concluded at 02:30 PM on the same day; he issued the certificate and reserved his opinion about the cause of death for want of chemical analysis report; on 12.12.2003, he received chemical analysis report and as per the said report, no poisonous substance was found in the dead body of the deceased-S.Venkataramana; and he recorded the cause of death that the deceased-S.Venkataramana might have died due to respiratory failure due to Tuberculosis of lungs and natural cause of death. In PME report, there is no mention of any injury on the dead body of the deceased. There is only mention that the death of the deceased might be due to respiratory failure or on account of Tuberculosis. In the Inquest panchanama also, there is no mention of single injury over the dead body of the deceased.

8. The specific evidence of A.W.2 is that the deceased had accidentally slipped and fallen down from the subject train at Anankapalli Railway Station at platform No.2 on 03.11.2003 and suffered severe injuries all over his body and he was immediately shifted to K.G.Hospital, Visakhapatnam, where he succumbed to the injuries on 04.11.2003. Even if the evidence of A.W.2 is accepted as true, there could have been injuries on the dead body of the deceased. But, not even a single injury was found on the dead body of the deceased as per the PME

report and Inquest panchanama. Further, the appellants-applicants have not examined the doctor who treated the deceased at K.G.Hospital, Visakhapatnam. Further, no single medical record was produced from K.G.Hospital, Visakhapatnam, to substantiate that the deceased suffered injuries in the subject accident. Had the deceased accidentally fallen down from a running train, there would have been commotion, number of people would have witnessed the same and the same would have been noticed by the railway authorities.

9. R.W.1 had categorically stated in his evidence that no untoward incident was reported to him on 03.11.2003. His evidence remained unchallenged and he was not cross-examined. When no bodily injuries were found on the dead body of the deceased and when there is evidence of railway officials that no untoward incident had occurred on 03.11.2003 and when the recitals of the PME report and the inquest panchanama are against the appellants-applicants, it is difficult to hold that the deceased-S.Venkataramana died in an untoward incident of accidental fall from a running train. It appears that the appellants-applicants have filed a false application to claim some compensation from the Railways. This type of practice is deprecated. Mere filing of the journey ticket under Ex.A.4 would not entitle the appellants-applicants to claim compensation from the Railways. From the record it can be safely culled out that the death of the deceased-S.Venkataramana was not the result of an untoward incident of accidental fall from a running train and that he died, a natural death, may be due to respiratory

failure or due to Tuberculosis. The Tribunal appreciated the oral and documentary evidence on record in correct perspective and rightly dismissed the claim petition of the appellants-applicants. There is no infirmity in the order under challenge. The appeal is devoid of merit and is liable to be dismissed.

10. In the result, the appeal is dismissed, confirming the order, dated 17.04.2012, passed in O.A.A.No.191 of 2004 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

There shall be no order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

12th October, 2018
Bvv

Dr. SHAMEEM AKTHER, J

