

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.257 OF 2010

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 09.12.2009, in O.A.A.No.19 of 2005 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, (for short, 'the Tribunal'), whereunder and whereby, the claim of the respondents/applicants under Section 125 of the Railways Act, 1989 read with Section 16 of the Railway Claims Tribunal Act, 1987 with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased Sanke Brahmaiah in an untoward incident of railway accident that took place on 18/19.01.2005 was allowed.

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

3. Learned Standing Counsel for the appellant/Railways would contend that there was no untoward incident of accident and the deceased Sanke Brahmaiah did not die in the alleged untoward incident of accident; that the DRM's report filed by the Railways was not considered by the Tribunal; that the applicants did not prove the documents filed by them to prove that the deceased Sanke Brahmaiah was a *bona fide* passenger and died in an untoward incident of accident and ultimately, prayed to set aside the impugned order and allow the appeal.

4. On the other hand, learned counsel for the respondents/applicants would contend that the Tribunal had rightly dealt with all the contentions and recorded the findings in favour of the applicants and granted compensation of Rs.4,00,000/- for the death of deceased Sanke Brahmaiah that occurred in an untoward incident of accident on 18/19.01.2005; 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 points that arise for determination are:

- “1. Whether the deceased Sanke Brahmaiah was a bona fide passenger and died in an untoward incident of accident by fall from train No.474 Kakinada – Tirupathi passenger, travelling from Singarayakonda to Tirupathi on 18.01.2005? and***
- 2. Whether the order, dated 09.12.2009, passed in O.A.A.No.19 of 2005 by the Tribunal is liable to be set aside? and***
- 3. To what relief?”***

6. **POINT Nos.1 to 3:-**

To substantiate the claim, the applicants have examined A.Ws.1 and 2 and got marked Exs.A-1 to A-5. Ex.A-1 is the F.I.R. Ex.A-2 is the Inquest Report. Ex.A-3 is the Post Mortem Certificate. Ex.A-4 is the Death Certificate. Ex.A-5 is the Proper Person Certificate. There is no oral evidence from the side of the Railways, but Ex.R-1 – DRM’s Report was filed. No person was examined on behalf of the Railways to prove the averments of Ex.R-1. The evidence of A.Ws.1 and 2 and the documents marked

as Exs.A-1 to A-5 reveal that the death of the deceased Sanke Brahmaiah occurred due to the accidental fall from train No.474 Kakinada – Tirupathi passenger travelling from Singarayakonda to Tirupathi on 18/19.01.2005 and the said accidental fall was due to sudden jerks of the said train. The Tribunal also elaborately discussed with regard to the deceased Sanke Brahmaiah possessing the subject journey ticket. In DRM's Report marked as Ex.R-1, there is specific mention of the deceased Sanke Brahmaiah possessing journey ticket. Under these circumstances, it can be safely concluded that the deceased Sanke Brahmaiah was a *bona fide* passenger and died in an untoward incident of accident by fall from train No.474 Kakinada – Tirupathi passenger travelling from Singarayakonda to Tirupathi on 18/19.01.2005. There is nothing to take a different view. There is no infirmity in the impugned order. The appeal is devoid of merits and is liable to be dismissed.

7. Accordingly, the 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 : 25.10.2018
AMD

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