THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.680 of 2016

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 31.05.2016, passed in OAII(U) No.366 of 2010 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.8,00,000/- for the death of the deceased-K.Laxman Rao 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 the deceased-K.Laxman Rao was travelling in train No.179 Kakinada Port – Visakhapatnam Passenger from Kakinada to Duvvada on the date of his accidental death, having purchased a valid journey ticket. He died in an untoward incident of accidental fall from the said train. The Tribunal, without adverting to the evidence on record, erroneously dismissed the claim petition of the appellants-applicants holding that the appellants-applicants have not produced the original journey ticket purchased by the deceased and ultimately prayed to set aside the order under challenge and grant compensation to the appellants-applicants as claimed.

4. On the other hand, the learned Standing Counsel for the respondent-Railways would contend that the Tribunal, after analysing the entire evidence on record, held that the deceased was not a *bona fide* passenger of train No.179 Kakinada Port – Visakhapatnam Passenger on the date of the subject accident. There was no valid journey ticket. There is no infirmity in the order under challenge 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 determination in this appeal are as follows:

1. Whether the deceased was a bona fide passenger of train No.179 Kakinada Port – Visakhapatnam Passenger on 24.07.2010 and died as a result of an untoward incident of accidental fall from the said train?

2. Whether the appellants-applicants are entitled for compensation as claimed?

Points:

6. To substantiate the claim of the appellants-applicants, the appellants-applicants got examined A.W.1-K.Satyavathi and got marked Ex.A.1-First Information Report, Ex.A.2-Inquest Report, Ex.A.3-Postmortem Examination Report, Ex.A.4-certified copy of ticket, Ex.A.5-Final report and Ex.A.6-Family Member Certificate. On behalf of the respondent-Railways, R.W.1-Ch.Harikrishna was examined and Ex.R.1-Divisional Railway Manager's report and Ex.R.2-copy of rough Journal of Guard were marked.

7. As per the evidence on record, the deceased-K.Laxman Rao was travelling from Kakinada to Duvvada in train No.179 Kakinada Port – Visakhapatnam Passenger on 24.07.2010 by

purchasing a valid journey ticket bearing registration No.40221007. In Ex.A.1-First Information Report, there is specific mention of details of journey ticket No.40221007 purchased by the deceased on 27.07.2010. The appellants-applicants have filed a copy of the said journey ticket and got it marked as Ex.A.4. The original ticket and certified copy of the ticket, which was marked as Ex.A.4, bears the same ticket number. The Tribunal had dismissed the claim petition on the ground that the original journey ticket purchased by the deceased was not filed by the appellants-applicants. In Ex.R.1-DRM's report, there are details of the train by which the deceased travelled on the date of his death, i.e., train No.179 Kakinada Port – Visakhapatnam Passenger. As per the recitals of Ex.R.1-DRM's report, the said train left Kakinada Port railway station at 05:05 hours and arrived at Visakhapatnam at 09:10 hours and that the said train left Narasingapalli Railway Station at 07:56 hours and arrived at Bayyavaram Railway Station at 08:04 hours. The dead body of the deceased-K.Laxman Rao was found at about 09:00 hours at KM No.732/18-20 on DN line track in between Narasingapalli – Bayyavaram Railway stations. The ticket number and the date of purchase of the ticket are also mentioned in Ex.R.1-DRM's report. There is no variation with regard to the date of journey and the ticket number in the record submitted by both the sides. It is evident from the record that after the said train passed the scene of offence, i.e., in between Narasingapalle – Bayyavaram Railway stations, the dead body of the deceased was found around 09:00 AM on

24.07.2010. In Ex.R.1-DRM's report, it has come up that the original ticket was given to the appellants-applicants. The appellants-applicants would have filed the original ticket before the Tribunal to substantiate their claim. When the details of the journey ticket are mentioned in Ex.A.2-Inquest report as well as in Ex.R.1-DRM's report and when it has come up in Ex.R.1-DRM's report that the original ticket was handed over to the relatives of the deceased on the spot on 24.07.2010 and when the ASIPF/Tuni, on enquiry with the Chief Booking Supervisor, Kakinada Town, certified that the said journey ticket was issued from the booking office of Kakinada at 05:11 hours on 24.07.2010, non production of the original journey ticket is not fatal to the case of the appellants-applicants. There is ample record to hold that the deceased was a *bona fide* passenger of train No.179 Kakinada Port – Visakhapatnam Passenger on 24.07.2010. The dead body of the deceased was found within two hours after the deceased boarding the subject train, between Narasingapally – Bayyavaram Railway Stations. There is every possibility of the deceased-K.Laxman Rao standing at the door of the compartment of the train and accidentally falling down from the said train due to jerks and speed. The opinion of the panch witnesses was also the same. No other inference can be drawn. Under these circumstances, it can be safely concluded that the deceased was a *bona fide* passenger of train No.179 Kakinada Port – Visakhapatnam Passenger on 24.07.2010 and died as a result of an untoward incident of accidental fall from the said train and that the appellants-

applicants are entitled for compensation. The findings of the Tribunal are not in consonance with the evidence on record. There is infirmity in the order under challenge and the same is liable to be set aside.

8. In the result, the appeal is allowed and the order, dated 31.05.2016, passed in OAII(U) No.366 of 2010 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, is set aside. The appellants-applicants are entitled for a compensation of Rs.8,00,000/-. The respondents-Railways is directed to deposit the awarded compensation of Rs.8,00,000/- before the Tribunal within a period of three (03) months from the date of receipt of a copy of this order, failing which, the appellants-applicants are entitled for interest @ 6% per annum on the said amount, from the date of this order till realisation. On deposit of the compensation, the 1st appellant-1st applicant, who is the wife of the deceased, is permitted to withdraw Rs.5,00,000/- and the appellants 2 to 4/applicants 2 to 4, who are the children of the deceased, are permitted to withdraw Rs.1,00,000/- each.

There shall be no order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

23rd October, 2018
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