

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.1341 OF 2008

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 04.06.2008, in O.A.A No.345 of 2002 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, (for short, 'the Tribunal'), whereunder and whereby, the claim of the appellants/applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act, 1989, with regard to grant of compensation for the death of the deceased Gaddam Ramesh in an untoward incident, was allowed.

2. Heard the learned counsel for the appellants, the learned Standing Counsel for the respondent and perused the record.

3. Learned Standing counsel for the appellant/Railways would contend that no journey ticket was found in possession of the deceased; that the deceased did not die in an untoward incident of accidental fall, but, however, the Tribunal held that the deceased was a *bona fide* passenger and died in an untoward incident of accidental fall from train No.7056 Narsapur express, which is erroneous and ultimately prayed to set aside the impugned order and allow the appeal.

4. Learned counsel for the respondents/applicants would contend that the deceased had accidentally fallen from train No.7056 of Narsapur express on 23.11.2002 and the Tribunal rightly determined the *lis* and there are no circumstances to take a

different view and ultimately prayed to dismiss appeal and confirm the order passed by the Tribunal.

5. In view of submissions made by both sides, the following points arise for determination:

1. Whether the deceased Gaddam Ramesh was a *bona fide* passenger of Train No.7056 Narsapur express to travel from Secunderabad to Nalgonda on 23.11.2002?
2. Whether the deceased Gaddam Ramesh died in an untoward incident of accidental fall from the said train No.7056 Narsapur express while travelling from Secunderabad to Nalgonda?
3. Whether the impugned order is liable to be set aside?
4. To what relief?

6. **POINT Nos.1 and 2:**

Admittedly, the railways did not conduct any enquiry and file any report. There is no oral or documentary evidence adduced by the railways. There is evidence of A.W.2 with regard to the deceased purchasing journey ticket on 23.11.2002 at Secunderabad and boarding train No.7056. Under Ex.A.2, inquest report, there is a specific mention that the deceased had fallen from the subject train No.7056 while travelling from Secunderabad.

7. The Tribunal held that while falling from the train, the ticket might have been lost or crushed. When there is ample evidence to substantiate the travel of the deceased by train No.7056 Narsapur express on 23.11.2002 and also the accidental fall from the said train, there is every possibility of the ticket being lost. Under these

circumstances, the Tribunal rightly held that the deceased was a *bona fide* passenger of the subject train and died in an untoward incident of accidental fall. There is no infirmity. There are no grounds to take a different view. There is no merit in the appeal.

8. Accordingly, the appeal is dismissed. Miscellaneous petitions pending, if any, in this appeal shall stand closed. There shall be no order as to costs.

DR.JUSTICE SHAMEEM AKTHER

DECEMBER 17, 2018

YVL



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



CIVIL MISCELLANEOUS APPEAL No.1341 OF 2008

Date: 17.12.2018

YVL