

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.515 OF 2010

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 05.03.2010, in O.A.A.No.206 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 16 of the Railway Claims Tribunal Act, 1987 read with Sections 124-A and 125 of the Railways Act, 1989 with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased Gadi Atchayamma in an untoward incident of railway accident that took place on 24.11.2005 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. This appeal is filed by the Railways contending that the case of the applicants is a fabricated one; that no journey ticket was found at the dead body of the deceased Gadi Atchayamma; that the Tribunal had taken different views and one of the views is that the death of the deceased Gadi Atchayamma might have occurred while crossing the track and getting hit by an engine; that further, the Tribunal has not properly appreciated the ocular and oral evidence on record in relation to the subject death to find out

whether the deceased Gadi Atchayamma was a *bona fide* passenger or not.

4. Though the issues were rightly framed, there is no discussion on them with relevance to the oral and documentary evidence and no specific findings were recorded. The contentions raised in the appeal by the Railways require examination by the Tribunal. Under these circumstances, the impugned order, dated 05.03.2010, passed in O.A.A.No.206 of 2005 by the Tribunal is set aside.

5. Accordingly, the appeal is allowed and the matter is remanded to the Tribunal. The Tribunal is directed to determine the issues afresh after affording opportunity to both sides and dispose of the matter in accordance with law, as expeditiously as possible, within a period of three (3) months from the date of receipt of a copy of this judgment. The amount, if any, paid by the appellant/Railways shall be recovered from the applicants, subject to final result of the C.M.A. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 10.10.2018
AMD

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