

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.800 OF 2015

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellant-Union of India, represented by the General Manager, South Central Railway, Secunderabad, challenging the order, dated 29.05.2015, passed in O.A.II (U) No.298 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, 'the Tribunal').

2. Heard the learned Standing Counsel for the appellant/respondent Railways, the learned counsel for the respondents/applicants for and perused the record.

3. Learned Standing Counsel for the appellant/respondent Railways would submit that the deceased Sattenapalli Venkateswara Rao committed suicide; that there is discrepancy with regard to the time of death of the deceased; that no ticket was found with the deceased, therefore, the deceased was neither a *bona fide* passenger nor travelled by Train No.273 Tirupati-Kakinada Passenger and did not fall accidentally from the said train; that the Tribunal had not appreciated all the facts and circumstances of the case and erroneously granted compensation in favour of the respondents/applicants and ultimately prayed to set aside the same.

4. On the other hand, learned counsel for the respondents/applicants would submit that the deceased Sattenapalli Venkateswara Rao was a *bona fide* passenger in Train

No.273 Tirupati – Kakinada Passenger and he accidentally fell down on 28/29.06.2008 from the said train; that the investigation conducted by the police and the inquest report of the deceased reveal that it is an accidental fall; that A.W.2 is brother-in-law of the deceased, who saw the deceased boarding the subject train after purchasing the ticket; that the Tribunal rightly appreciated all the facts and circumstances of the case and allowed the application; that there is no infirmity in the impugned order and ultimately prayed to dismiss the appeal.

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

1. Whether the deceased Sattenapalli Venkateswara Rao was a *bona fide* passenger of Train No.273 of Tirupati – Kakinada Passenger;
2. Whether the deceased died in an untoward incident of accidental fall from the said train on the intervening night of 28/29.06.2008?
3. Whether the impugned order is liable to be set aside?
4. To what relief?

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

Admittedly, A.W.1, who is wife of the deceased, is not an eyewitness to the occurrence. A.W.2 is brother-in-law of the deceased, who deposed that on 28.06.2008 night he accompanied the deceased to Tirupati Railway station, where the deceased purchased ticket to travel from Tirupati to Eluru and boarded train No.273 Passenger. He also stated that he was informed at about 10:00 hours on 29.06.2008 regarding the death of the deceased in

a train accident. Then he proceeded to Gudur and identified the dead body as that of his brother-in-law. As per the inquest report, Ex.A.2 and Ex.A.6-final report, the deceased Sattenapalli Venkateswara Rao had fallen from the train and died.

7. Learned counsel for the respondent/railways would contend that the deceased committed suicide. But, there is no evidence on record to substantiate the same. The Tribunal had elaborately dealt with regard to time of death and held that the death occurred during the intervening night of 28/29.06.2008. Ex.R.2 is the Divisional Railway Manager's Report, wherein it is mentioned that the subject death might be by way of suicide or hit by un-known train. When there is a specific mention with regard to the accidental fall from train in Ex.A.2- inquest report and Ex.A.6- final report, the evidence of A.W.2 brother-in-law of the deceased cannot be discarded. The Tribunal had analysed the entire evidence and held that the deceased was a *bona fide* passenger and died in an untoward incident of accidental fall from Train No.273 Passenger on 29.06.2008. This is based on the evidence on record. There is no infirmity in the impugned order. There is nothing to take a different view.

8. Accordingly, the appeal is dismissed confirming the order, dated 29.05.2015, passed in O.A.II (U) No.298 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. The appellant/respondent Railways is directed to deposit the compensation amounts within a period of three months from the date of receipt of a copy of this order.

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

DR.JUSTICE SHAMEEM AKTHER

NOVEMBER 13, 2018
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Date: 13.11.2018

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