

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.501 of 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellant-applicant, challenging the order, dated 29.01.2014 in O.A.A. No.56 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby the claim petition filed by the appellant-applicant claiming compensation for the death of his wife Madhu Padma (hereinafter referred to, as 'the deceased') in an untoward incident of accidental fall from train No.323 Singareni passenger (hereinafter referred to, as 'the subject train') at Asifabad road railway station on 22.02.2007 while travelling from Mahcherial to Asifabad Road, was dismissed.

2. Heard both sides. Perused the record.

3. For convenience, the parties are hereinafter referred to, as per their array before the Tribunal.

4. The learned counsel for the applicant would contend that as per entire evidence on record, including Ex.R3-Divisional Railway Manager's report, the deceased Padma was a *bona fide* passenger of the subject train and

died in an untoward incident of accidental fall from running train on 22.2.2007; that merely on account of some difference in the name mentioned in Ex.A5-ration card, the applicant was denied compensation; that the Tribunal erred in denying compensation to the applicant, and ultimately prayed to allow the appeal granting the compensation.

5. On the other hand, the learned counsel for the Railways supported the impugned order passed by the Tribunal and would contend that there is no mention in Ex.A5-ration card that the applicant is husband of the deceased Padma; that the Tribunal rightly dismissed the claim application and there is no infirmity, and ultimately prayed to dismiss the appeal.

6. The Tribunal settled the following issues.

- (1) whether the applicant is dependant of the deceased ?
- (2) Whether the deceased was a *bona fide* passenger of the train in question ?
- (3) Whether the deceased died as a result of an untoward incident of accidental fall from the said train ?
- (4) To what relief ?

7. The Tribunal dealt with only issue no.1. It did not answer the other issues. Since 11 years elapsed from the date of the alleged accidental fall, it is appropriate to

answer all the issues arising in the claim application to avoid hardship to the applicant.

8. In view of the above submissions, the following points arise for determination in this appeal:

- 1) Whether the applicant is dependant on the deceased Madhu Padma ?
- 2) Whether the deceased Madhu Padma was a *bona fide* passenger of train No.323 Singareni passenger travelling from Mancherial to Asifabad Road on 22.02.2007 ?
- 3) Whether the deceased died in an untoward incident of accidental fall from running train No. No.323 Singareni passenger on 22.02.2007 ?
- 4) Whether the impugned order passed by the Tribunal is liable to be modified or set aside ?
- 5) To what relief ?

Points 1 to 4:

9. To substantiate his claim, the applicant examined himself as A.W.1 and marked Ex.A1-attested copy of FIR; Ex.A2-attested copy of inquest report; Ex.A3-attested copy of post-mortem examination report; Ex.A4-death report of the deceased issued by Station House Officer, R.P.S., Bellampalli and Ex.A5-copy of ration card.

On behalf of railways, R.W.1-Station Superintendent was examined and Ex.R1-copy of control message; Ex.R2-

copy of station diary and Ex.R3-Divisional Railway Manager's report (DRM report), were got marked.

10. As per Ex.R3-DRM report, the deceased Madhu Padma was a *bona fide* passenger of subject train no.323 Singareni passenger on 22.02.2007, accidentally fell down from the said train, suffered injuries and succumbed to the same. There is also documentary evidence such as FIR, inquest report, post mortem examination report, etc., to substantiate the same. Since there is no adverse statutory report by the railways that the deceased is not *bona fide* passenger and did not die in an untoward incident of accidental fall, the findings recorded in Ex.R3 can be taken on its face value and it can safely be concluded that the deceased was a *bona fide* passenger of the subject train and died in an untoward incident of accidental fall from the subject train on 22.02.2007.

11. As regards the other issue with regard to dependency, the applicant, as A.W.1, deposed that he is husband of the deceased Madhu Padma. In Ex.A5-ration card, name of wife of the applicant is mentioned as 'Sripadmavathi'. In the entire claim application, her name is mentioned as 'Madhu Padma'. There is no much distinction between 'Sripadmavathi' and 'Madhu Padma'. Generally, both represent each other. When there is

specific evidence of A.W.1 that “Madhu Padma’ and ‘Sripadmavathi’ are one and the same and both names refer to his wife only, merely because name of the deceased is mentioned as ‘Sripadmavathi’ in Ex.A5, the claim of the applicant cannot be disbelieved. There is no rival claim. No other person has come up so far claiming compensation. Since the Railways Act, 1989 is a beneficial legislation enacted to compensate the victims of railway accidents, Tribunals should not adopt strict approach. When the applicant has stated in his claim application and chief-affidavit and deposed before the Tribunal that ‘Madhu Padma’ and ‘Sripadmavathi’ are one and the same and both names refer to his wife only and when there is no rival claim, it can safely be concluded that the deceased is wife of the applicant. The Tribunal has not appreciated the evidence on record in right perspective and arrived at perverse findings. The impugned order of the Tribunal is liable to be set aside. Under these circumstances, the other points are held in favour of the applicant and against the railways.

Point No.4:

12. In the result, the C.M.A. is allowed. The impugned order dated 29.01.2014 in O.A.A. No.56 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside. Consequently, the

O.A.A. is allowed. The applicant is awarded compensation of Rs.8,00,000/- (Rupees eight lakhs only) with interest @ 6% per annum on the compensation amount from the date of filing the claim application i.e. 04.12.2007, till 03.12.2010 and from 21.12.2010 till the date of this judgment. The respondent-railways is directed to deposit the said amount within a period of three months from the date of receipt of a copy of this judgment, failing which the applicant is entitled to interest @ 9% per annum on the compensation amount from the date of this judgment till date of realization. On deposit, the applicant is entitled to withdraw the amount with accrued interest.

There shall be no order as to costs of this appeal. Pending Miscellaneous Petitions, if any, in the appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

19.11.2018
DRK

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