

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.612 OF 2016

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 10.09.2015, in O.A.A.No.63 of 2007 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 with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased Etlapuram Ghouse Basha in an untoward incident of railway accident that took place on 28.03.2006, 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. Learned Standing Counsel for the appellant/Railways would contend that there is no eye witness to the so called accidental fall of the deceased Etlapuram Ghouse Basha from train - Guntur – Yashwanthpur Passenger while travelling from Vinukonda to Gajjalakonda and he died due to his own negligence and ultimately, prayed to set aside the impugned order and allow the appeal.

4. On the other hand, learned counsel for the respondents/applicants would contend that the deceased Etlapuram Ghouse Basha was a *bona fide* passenger and he died

in an untoward incident of accidental fall from train - Guntur - Yashwanthpur Passenger on 28.03.2006 and there is ample evidence on record to substantiate the same; that the Tribunal rightly placed reliance on Exs.A-1 to A-4 and the evidence of A.W.1; that there is no infirmity in the impugned order and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, the points that arise for determination are:

- “1. Whether the deceased Etlapuram Ghouse Basha was a bona fide passenger and died in an untoward incident of accidental fall from train - Guntur - Yashwanthpur Passenger on 28.03.2006? and***
- 2. Whether the order, dated 10.09.2015, in O.A.A.No.63 of 2007 passed by the Tribunal is liable to be set aside? and***
- 3. To what relief?”***

6. **POINT Nos.1 to 3:-**

The journey ticket of the deceased Etlapuram Ghouse Basha to travel from Vinukonda to Gajjalakonda in train - Guntur - Yashwanthpur Passenger was found and the same is reflected in the inquest panchanama as well as the G.R.P records. The dead body of the deceased Etlapuram Ghouse Basha was found after passing of the train in between Tarlapadu and Markapuram Railway Stations at Km.146/6-7. As per the evidence adduced on record, there is no evidence of planting the ticket. When there is mention with regard to the accidental fall of the deceased Etlapuram Ghouse Basha and his possessing ticket in the inquest panchanama and when the injuries found on the person of the

deceased Etlapuram Ghouse Basha were possible in an accidental fall from a train, which is evident from Ex.A-3 – Post Mortem Examination Report, it is not possible to take a view that the injuries suffered by the deceased Etlapuram Ghouse Basha were self inflicted ones and the deceased Etlapuram Ghouse Basha was not a *bona fide* passenger. The Tribunal rightly analysed the entire evidence on record and allowed the claim application. There is nothing to take a different view. There is no infirmity in the impugned order. The appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the appeal is dismissed. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 30.11.2018
AMD



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