

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.1024 OF 2016

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 09.11.2016, in O.A.A No.400 of 2009 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 consequent on the death of the deceased T.Rammohan @ Rambabu in an untoward incident of railway accident was dismissed.

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

3. Learned counsel for the appellants/applicants would contend that A.W.2 and the deceased T.Rammohan boarded in a general compartment of Train No.274 Kakinada Port-Tirupati on 01.09.2009, to travel from Ipurupalem to Vetapalem; that as there was heavy rush in the train, the deceased slipped and fell down accidentally from the subject train between Ipurupalem and Chirala railway stations due to speed, jolt and jerks of the said train; that there is evidence of A.W.2 to establish the purchase of ticket, the travel as well as the accidental fall; that A.W.2 is also a witness to the inquest panchanama; that the details of tickets were mentioned in the inquest panchanama and the ticket was also marked before the Tribunal as Ex.A.1; that since the

details of tickets are not mentioned in column No.7 of the inquest panchanama, the Tribunal did not believe that the deceased was a *bona fide* passenger and had accidentally fallen down from the subject train on 01.09.2009 and erroneously dismissed the claim application and ultimately prayed to set aside the impugned order and allow the appeal as prayed for.

4. Learned Standing Counsel for the respondent/Railways would contend that Ex.A.1-ticket was brought into existence after finding the dead body of the deceased; that the details of the ticket are not mentioned in column No.7 of the inquest panchanama; that there is no direct witness to the alleged accidental fall; that A.W.2 is pressed into service for the purpose of this case to claim compensation; that the Tribunal is justified in dismissing the claim application and ultimately prayed to sustain the impugned order.

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

1. Whether the deceased T.Rammohan @ Rambabu was a *bona fide* passenger of Train No.274 Kakinada Port- Tirupati passenger on 01.09.2009?
2. Whether the deceased T.Rammohan died in an untoward incident of accidental fall from the said Train No.274 on 01.09.2009?
3. Whether the impugned order is liable to be set aside?
4. To what relief?

6. **POINTS:**

A.W.1 is son of the deceased. He is not an eyewitness to the purchase of Ex.A.1-ticket by the deceased as well as the alleged

accidental fall. A.W.2 is a friend and co-passenger of the deceased. He deposed that the deceased and himself purchased two tickets bearing Nos.13241 and 13242 to travel from Ipurupalem to Vetapalem by train number No.274 Kakinada Port-Tirupati passenger and boarded in the general compartment of the said train. He further deposed that the deceased had accidentally fallen from the subject train due to speed, jolt and jerks in between Ipurupalem and Chirala railway stations. His evidence further disclose that having noticed fall of the deceased, immediately on the same day i.e., on 01.09.2009, he handed over two tickets to the railway police. In column No.XV of the inquest panchanama, there is a specific mention about the deceased travelling by train No.274 on 01.09.2009 and falling accidentally from the said train in between Ipurupalem and Chirala railway stations at Km.340/31-29. The details of the ticket numbers are also mentioned in column No.XV of the inquest panchanama. Column No.VII inquest panchanama reads as follows:

“The corpse is on the Up line between Stuvartpuram – Chirala R.Ss., in between K.M.No.340/31-29 Posts, body was mutilated, cut into pieces and lying up to 90 sleepers distance. Head towards west and parts of the body are towards south. INJURIES: The body was cut into pieces, lying separately and intestines are lying on the Up Track. CLOTHES: Biscuit colour full hands shirt, it was torn and lying into pieces. Olive green print lungi is lying on the Track. Except these, there are no other valuable Gold, Silver articles and cash with the Deceased.”

7. While dealing with the subject matter, the Tribunal held that there is inconsistency / contradictions between contents in column No.VII and column XV of Ex.A.3-inquest panchanama, and that in column No.VII of the inquest panchanama, there is no mention of

finding of ticket, whereas in column No.XV there are details of ticket numbers. There is specific evidence of A.W.2 that after accidental fall, A.W.2 went to place of accident, handed over tickets to the railway police. He stated that no receipt was given to him by the police. The Tribunal held that Ex.A.1 ticket is planted to claim compensation. It is pertinent to state that without loss of time, immediately after the fall of the deceased, A.W.2 went to the scene and handed over the tickets to the police. The conduct of A.W.2 is quite natural. The inquest panchanama was conducted on 02.09.2009, between 9:00 hours and 11:00 hours, tickets details and the presence of A.W.2 is also mentioned in the inquest panchanama. As per DRM report, particulars of Ex.A.1- ticket, mentioned in the inquest panchanama are said to have been issued by the railways to travel by train No.478, Vijayawada to Bitragunta. A perusal of Ex.A.1-ticket clearly demonstrates that the ticket was issued to travel from Ipurupalem to Vetapalem. Ex.A.1 is a valid journey ticket to travel by train No.274 Kakinada Port-Tirupati passenger in between Ipurupalem and Chirala. The DRM report concludes that the deceased did not travel by train No.274, did not undertake journey from Ipurupalem and did not accidentally fallen down from it. There is no direct or indirect evidence to substantiate the same in the DRM report. There is specific evidence of A.W.2 with regard to the deceased boarding of train No.274 and falling from the said train. Further, the dead body of deceased was found at railway track with multiple injuries, which are evidenced Ex.A.4- post-mortem examination report and those injuries are possible from an accidental fall.

8. According to DRM report, Ex.A.1-ticket was issued on 01.09.2009. So, it cannot be said that the deceased and A.W.2 were not entitled to travel by train No.274. There is evidence to substantiate the accidental fall of the deceased in between Ipurupalem and Vetapalem on that day itself. Therefore, it can safely held that the deceased was a *bona fide* passenger and died in an untoward incident of accidental fall from train No.274 on 01.09.2009 between Ipurupalem and Chirala railway stations. The findings of the Tribunal are not in consonance with the evidence on record and the same are liable to be set aside.

9. In the result, the appeal is allowed setting aside the impugned order passed by the Tribunal. Consequently, O.A.A No.400 of 2009 is allowed granting compensation of Rs.8,00,000/- (Rupees Eight lakhs only) to the appellants/claimants. The respondent/railways is directed to deposit the said amount within three (3) months from the date of receipt of a copy of this Judgment, failing which the respondent/railways shall pay interest at 6% per annum on the compensation amount. On deposit, the 1st appellant, who is wife of the deceased, is entitled to receive Rs.5,00,000/- and the other appellants are entitled for a sum of Rs.1,00,000/- each.

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

DR.JUSTICE SHAMEEM AKTHER

DECEMBER 14, 2018
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Date: 14.12.2018

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