

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.494 of 2016

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellants-applicants, challenging the order, dated 01.04.2016 in O.A. (IIU) No.67 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition of the appellants-applicants claiming compensation of Rs.4,00,000/- for the death of P.Trimurthulu (hereinafter referred to, as 'the deceased') in an untoward accidental fall from train No.471 Vijayawada-Rayagada passenger (hereinafter referred to, as 'the subject train') on 16.12.2007 at KM No.718/16-18 in between Regupalem and Elamanchili railway stations, 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 applicants would contend that while the deceased and one M.S.Adinarayana were travelling in the subject train from Rajahmundry to

Elamanchili on 16.12.2007, the deceased fell down accidentally from the running train at KM No.718/16-18 between Regupalem and Elamanchili railway stations, sustained injuries and succumbed to the same; that the said M.S.Adinarayana died and his death certificate is marked as Ex.A7; that in the course of inquest and during investigation conducted by railway authorities, the said M.S.adinarayana clearly and categorically stated that he travelled along with the deceased on the date of death of the deceased; that the Tribunal erroneously held that no ticket was traced nor filed and hence the deceased was not a *bona fide* passenger of the subject train, and was pleased to dismiss the claim petition erroneously; that there is ample evidence on record to substantiate that the deceased was a *bona fide* passenger and died in an untoward incident of accidental fall on 16.12.2007, and ultimately, prayed to set aside the impugned order and allow the claim petition.

5. On the other hand, the learned counsel for the Railways supported the impugned order passed by the Tribunal and would contend that as per the inquest report Ex.A2, the deceased was dragged and there was no cutting of the dead body or any limbs thereof; that from the injuries noticed in post-mortem examination report Ex.A3, it is clear that the death of the deceased was not due to

accidental fall from train; that in Divisional Railway Manager (DRM) report Ex.R1, it came to light that the said M.S.Adinarayana was not doing cooli work and he did not accompany the deceased on the fateful day; that the deceased did not die in an untoward incident of accidental fall, and even he did not die coming under running train; that the Tribunal, while dealing with the matter, recorded clear finding that the deceased was not a *bona fide* passenger and he did not die in an untoward incident of accidental fall from running train, and the findings of the Tribunal are based on evidence on record and there is nothing to take a different view, and ultimately prayed to dismiss the appeal.

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

- 1) Whether the deceased P.Trimurthulu was a *bona fide* passenger of train No.471 Vijayawada-Rayagada passenger travelling from Rajahmundry to Elamanchili on 16.12.2007 ?
- 2) Whether the deceased died in an untoward incident of accidental fall from running train No.471 Vijayawada-Rayagada passenger on 16.12.2007 at KM No.718/16-18 between Regupalem and Elamanchili ?
- 3) Whether the impugned order passed by the Tribunal is liable to be modified or set aside ?
- 4) To what relief ?

**Points 1 to 4:**

7. To substantiate the claim of the applicants, applicant no.1, who is wife of the deceased, was examined as A.W.1 and Ex.A1-copy of FIR; Ex.A2-copy of inquest report; Ex.A3-copy of post-mortem examination report; Ex.A4-death certificate; Ex.A5-case diary part-I; Ex.A6-legal heir certificate and Ex.A7-death certificate of Marisetty Adinaidu, were got marked. On behalf of railways, R.W.1 (Keyman) and R.W.2 (CI of RPF) were examined and Ex.R1-DRM report was got marked. Ex.C1-CD file in crime no.154/07 of RPS, Tuni was marked as court document.

8. Specific case of the applicants is that on 16.12.2007, the deceased purchased a ticket, was travelling by the subject train from Rajahmundry to Elamanchili along with M.S.Adinarayana, fell from the running train accidentally at KM No.718/16-18 between Regupalem and Elamanchili and died instantaneously. A.W.1 is neither an eye-witness to the alleged incident of accidental fall nor she saw the deceased purchasing the ticket to travel from Rajamundry to Elamanchili by subject train. The said M.S.Adinarayana, who said to have accompanied the deceased, died and his death certificate is marked as Ex.A7. As per Ex.A3-copy of post-mortem examination report, abrasions are found over the dead body

of deceased and there was fracture of ribs, etc. There is no cutting of hands or legs. Generally, in an accidental fall from running train, there would be cutting of upper or lower limbs or both limbs. As per Ex.R1-DRM report, the said M.S.Adinarayana was not a co-worker of the deceased. In the inquest panchanama marked as Ex.A2 and in Ex.R1 DRM report, no ticket was found with the dead body of the deceased.

9. The contention of the applicants is that the said M.S.Adinarayana was the companion of the deceased at the time of occurrence of the accident. It is the case of the applicants that the said M.S.Adinarayana was the co-worker of the deceased and had got acquaintance with the deceased. Had the said M.S.Adinarayana accompanied the deceased, he would have certainly informed the fall of the deceased from the subject train to the railway authorities or to the relatives of the deceased, and he would have been instrumental in discovery of the dead body of the deceased. In the entire record produced before this Court, there is no mention that the said M.S.Adinarayana informed about alleged fall of the deceased to any of the railway authorities or to the relatives of the deceased. As per the evidence adduced on behalf of the railways and the documents marked, the dead body was noticed by R.W.1-Rama Rao, Keyman, who was on duty at Elamanchili at 9.00 hours on

16.12.2007. Therefore, the finding of the dead body at the place of alleged fall was not at the instance of said M.S.Adinarayana. Since the dead body was noticed at the instance of R.W.1-T.Rama Rao, Keyman, who was on duty between Regupalem and Elamanchili, it is difficult to believe that the said M.S.Adinarayana was accompanying the deceased and had noticed the fall of the deceased from the subject train. Therefore, Ex.A7-copy of death certificate of said M.S.Adinarayana is not helpful to the case of the applicants.

10. When the applicants contended that the deceased purchased journey ticket, certainly, the ticket would have been found with the deceased or nearby the place where the dead body was noticed. Further, the injuries on the dead body as mentioned in Ex.A3 post mortem examination report viz. abrasions, fracture, etc. are not possible due to fall from a running train. The Tribunal, while analysing the aspect whether the deceased was a *bona fide* passenger or not, had elaborately dealt with the evidence on record and rightly concluded that the deceased was not a *bona fide* passenger of the subject train. The findings are based on evidence on record. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

11. In the result, the appeal is dismissed. No costs.  
Pending Miscellaneous Petitions, if any, in the appeal shall  
stand closed.

---

**Dr. SHAMEEM AKTHER, J**

24.10.2018  
DRK

