

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.243 OF 2013

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 18.10.2012, in O.A.A.No.547 of 2006 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 read with Sections 124-A and 125 of the Railways Act, 1989 with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased M.China Venkat Rao in an untoward incident of railway accident that took place on 12.11.2006 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 the deceased M.China Venkat Rao met with an accident on a loop line and it does not fall under the category of "untoward incident"; that the deceased M.China Venkat Rao was responsible for the occurrence of the accident and death, and that the circumstances which led to the death of the deceased M.China Venkat Rao are not the outcome of the untoward incident of railway accident; that the Tribunal erroneously recorded a finding that the deceased M.China Venkat Rao died in an untoward

incident of railway accident and it is unsustainable and ultimately, prayed to set aside the impugned order and allow the appeal.

4. On the other hand, learned counsel for the respondents/applicants supported the impugned order and prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, the short point that arises for determination is:

“Whether the deceased M.China Venkat Rao died in an untoward incident of railway accident that occurred on 12.11.2006?”

6. **POINT:-**

To substantiate the case, on behalf of the applicants, A.W.1 was examined and Exs.A-1 to A-7 were got marked. On behalf of the Railways, R.Ws.1 to 3 were examined and Exs.R-1 to R-4 were got marked.

7. R.W.1 – Station Superintendent, Nagireddipally, in his cross examination, categorically stated that he does not know the message given by the Station Superintendent, Nalgonda with regard to the lying of dead body near the railway track. Admittedly, R.W.2, who is a Pointsman, is also not an eye witness to the occurrence of the accident. Therefore, the evidence of R.Ws.1 and 2 in no way helpful to the case of the Railways that the deceased M.China Venkat Rao was responsible for the occurrence of the accidental death or that he did not die in an untoward incident. As per the evidence of R.W.2, the incident occurred in the early morning; that the passenger train No.319 was stopped on the loop line; that in the meanwhile, 3 to 4 persons got down from

the passenger train and went to the offside, and while coming back crossing the track, the deceased M.China Venkat Rao was hit by the engine of Nagarjuna Express and he informed the said fact to the driver of the express train. Under these circumstances, it cannot be said that the injuries suffered by the deceased M.China Venkat Rao were self inflicted injuries.

8. As far as possessing of ticket is concerned, there is ample evidence to substantiate the same and conclude that the deceased M.China Venkat Rao was a *bona fide* passenger. A.W.1, who is the wife of the deceased M.China Venkat Rao, is not an eye witness to the occurrence of the accident. When train No.319 had stationed to give way to Nagarjuna Express i.e., train No.2720, after passing of the Nagarjuna Express, the dead body of the deceased M.China Venkat Rao was found. Therefore, it cannot be a case of suicide. It can only be an untoward incident of railway accident causing death. The Tribunal justified that the deceased M.China Venkat Rao died in an untoward incident of accident by fall from a train. Under these circumstances, there is nothing to take a different view. There is no infirmity in the impugned order. The appeal is devoid of merits and is liable to be dismissed.

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

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

DR.JUSTICE SHAMEEM AKTHER

Date : 12.10.2018
AMD

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