

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.332 of 2013

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 21.03.2013, passed in O.A.A.No.545 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition filed by the appellants/applicants claiming a compensation of Rs.4,00,000/- for the death of their son-Y.Bharat in the alleged untoward incident of accidental fall from a running train, was dismissed.

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

3. The learned counsel for the appellants/applicants would submit that there is evidence of A.W.1 and A.W.2 with regard to the accidental fall of the deceased-Y.Bharat from the running Train No.2803 Visakhapatnam – H.Nizamuddin Swarna Jayanthi Super Fast Express while travelling from Vijayawada to Bhopal on 03.11.2008. There is also ample documentary evidence on record to substantiate the same. The Tribunal did not consider the evidence on record in proper perspective and erroneously held that the deceased did not die in an untoward incident of accidental fall from the subject train. The Tribunal erroneously dismissed the claim application of the appellants/applicants and

ultimately prayed to allow the appeal by setting aside the order under challenge and grant compensation as claimed.

4. On the other hand, the learned Standing Counsel for the respondent-Railways would contend that there is no iota of evidence on record to substantiate the alleged accidental fall of the deceased from the running Train No.2803 Super Fast Express while travelling from Vijayawada to Bhopal on 03.11.2008. A story is concocted by the appellants/applicants in order to claim compensation from the Railways. A.W.2 was pressed into service to claim compensation. The Tribunal, after analysing the entire evidence on record, rightly dismissed the claim petition. There is no infirmity in the order under challenge and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. In view of the above rival contentions, the points that arise for determination in this appeal are as follows:

1. Whether the deceased-Y.Bharat was a *bona fide* passenger of the Train No.2803 Super Fast Express on 03.11.2008?
2. Whether the deceased-Y.Bharat died in an untoward incident of accidental fall from the running Train No.2803 Super Fast Express while travelling from Vijayawada to Bhopal on 03.11.2008?
3. Whether the order under challenge is liable to be set aside/ confirmed?
4. To what result?

Point Nos.1 to 4:-

6. To substantiate the claim of the appellants/applicants, A.W.1 and A.W.2 were examined and Ex.A.1-original journey tickets (three), Ex.A.2-Death declaration Report, Ex.A.3-letter

issued by IESM, Ex.A.4-certificate issued by IESM, Ex.A.5-Death Certificate of the deceased, Ex.A.6-xerox copy of Ration Card and Ex.A.7-Family members certificate were marked.

7. Admittedly, the dead body of the deceased-Y.Bharat was not subjected to Post Mortem Examination. There is also no inquest Panchanama. Further, no investigation has been conducted by the railway authorities with regard to the alleged untoward incident. In Ex.A.5-death certificate of the deceased, there is a specific mention against the column 'place of death' as 'Maddulur', whereas in the claim petition, the appellants/applicants stated that the deceased died on the way while he was being shifted to Care Hospital, Nampally, Hyderabad, from M.G.M.Hospital, Warangal. Further, it is nowhere mentioned in Ex.A.5 that the deceased died by falling down accidentally from a running train. A.W.2, being a friend of the deceased, had supported the case of the applicants. It appears that A.W.2 is pressed into service to depose in favour of the appellants/applicants. The Tribunal had elaborately dealt with all the issues and held that in the absence of First Information Report, Inquest Report and Post Mortem Examination, the real cause of death of the deceased cannot be ascertained. A false claim has been made by the appellants/applicants to make unlawful gain from the Railways by circumventing and fabricating the facts and circumstances that led to the death of the deceased. The findings of the Tribunal are in consonance with the evidence on record. There is nothing to take a different view. There is no infirmity in the

order under challenge. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed, confirming the order, dated 21.03.2013, passed in O.A.A.No.545 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

There shall be no order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

---

Dr. SHAMEEM AKTHER, J

13<sup>th</sup> December, 2018  
Bvv

