

**THE HON'BLE DR.JUSTICE SHAMEEM AKTHER**

**C.M.A.No.429 OF 2010**

**JUDGMENT:**

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 25.02.2010, in O.A.A.No.306 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 appellants/applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act, 1989 (for short, 'the Act') with regard to grant of compensation of Rs.4,00,000/- consequent on the death of the deceased R.Rama Naidu in an untoward incident of railway accident that took place on 10.01.2006 was dismissed.

2. Heard the learned counsel for the appellants/applicants and the learned Standing Counsel for the respondent/Railways. Perused the material on record.

3. Learned counsel for the appellants/applicants would contend that the deceased R.Rama Naidu was a *bona fide* passenger and he died in an untoward incident of railway accident while travelling from Panyam to Nandyal and the DRM's report and the Inquest Report substantiate the same; that the Tribunal erroneously held that the deceased R.Rama Naidu was not a *bona fide* passenger and did not suffer death in an untoward incident of accident; that the findings of the Tribunal are erroneous and

ultimately, prayed to set aside the impugned order and allow the appeal.

4. On the other hand, learned Standing Counsel for the respondent/Railways would contend that no ticket was found near the dead body of the deceased R.Rama Naidu and further, there is no direct evidence showing the purchase of ticket by the deceased R.Rama Naidu and that there is no evidence that the deceased R.Rama Naidu travelled by any train in between Panyam and Nandyal on 10.01.2006; that the Tribunal rightly concluded that the deceased R.Rama Naidu was not a *bona fide* passenger and he did not die in an untoward incident of railway accident; that there is no infirmity in the impugned order and there are no circumstances to take a different view and ultimately, prayed to dismiss the appeal.

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

- “1. Whether the deceased was a bona fide passenger of the subject train? and***
- 2. Whether the deceased R.Rama Naidu died as a result of the untoward incident of accident by accidental fall from the train?”***

6. **POINT Nos.1 & 2:-**

To substantiate the case of the applicants, A.Ws.1 and 2 were examined and Exs.A-1 to A-4 were got marked. On behalf of the Railways, R.W.1 was examined and Ex.R-1 was got marked.

7. Admittedly, there is no direct evidence to substantiate that the deceased R.Rama Naidu was travelling by train on 10.01.2006.

However, his dead body was found on 10.01.2006 at 6:00 A.M. on the railway track between Panyam and Nandyal. Further, there is no direct evidence to establish the purchase of the ticket by the deceased R.Rama Naidu. On the other hand, there is evidence of R.W.1, who categorically stated that there was no untoward incident of railway accident at that particular point of time. As per the entire evidence on record, no driver had informed the occurrence of an untoward incident with the railway authorities on 10.01.2006. When the dead body of the deceased R.Rama Naidu was examined, no ticket was found on his person though Identity Card, bus pass and two ATM Cards were found. A.W.2 had stated that the deceased R.Rama Naidu informed him that he would travel by train but there is no evidence as to whether the deceased R.Rama Naidu travelled by any train. However, as per the evidence of A.Ws.1 and 2, the deceased R.Rama Naidu wanted to go to Panyam, but there is no direct evidence to show whether the deceased R.Rama Naidu really reached Panyam or not. As per the Inquest Report, it was found that the deceased R.Rama Naidu was moving in and around Nandyal and Koilkuntla for the last two days prior to his death. The initial burden lies on the applicants to prove that the deceased R.Rama Naidu was a *bona fide* passenger and travelling by a particular train and had an accidental fall from the train. Absolutely, there is no such evidence. While dealing with the subject matter, the Tribunal had elaborately dealt with the entire oral and documentary evidence and ultimately, concluded that the deceased R.Rama Naidu was not a *bona fide* passenger and had not travelled by a train to have an accidental fall. The subject death might have occurred due to murder or

suicide or while the deceased R.Rama Naidu was crossing the railway track. These findings recorded by the Tribunal are based on the evidence on record and 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.

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

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

Date : 10.10.2018  
AMD

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