

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.371 of 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellant/applicant, challenging the order, dated 12.02.2014, passed in O.A.A.No.402 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellant/applicant, the learned Standing Counsel for the respondent-Railways and perused the record.

3. Learned counsel for the appellant/applicant would contend that the deceased - N. Chandrasekhar Reddy had accidentally fallen from the running Train No.471 Vijayawada - Rayagad passenger on the intervening night of 15/16.10.2007. A journey ticket was also found during inquest *panchanama*. The Tribunal erroneously held that the deceased was not *bona fide* passenger of train No.471. There is ample evidence on record to substantiate that the deceased was *bona fide* passenger of the said train and had fallen accidentally from the said train on the intervening night of 15/16.10.2007. The Tribunal erroneously dismissed the application, and ultimately prayed to set aside the order under challenge and grant compensation.

4. On the other hand, the learned Standing Counsel for the respondent-railways would contend that before conducting the inquest, efforts were made by the relatives of the deceased to plant

a journey ticket, but the same were unsuccessful. In the inquest *panchanama* and the First Information Report, there is no mention of finding a journey ticket. Ex.A.3 - attested copy of the post-mortem examination report establishes that the injuries were not accidental by falling from a train and it was either a case of suicide or hit on a railway crossing. The Tribunal, after analysing the entire evidence on record, in proper perspective, rightly dismissed the application and there is no infirmity in the order, and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the appellant/applicant is the dependent of the deceased.

6. In view of the above submissions made by both sides, the points that arise for determination in this appeal are as follows:

1. Whether the deceased – N. Chandrasekhar Reddy was a *bona fide* passenger of Train No.471 Vijayawada - Rayagada Passenger travelling from Vijayawada to Anaparthi on 15.10.2007?
2. Whether the deceased – N. Chandrasekhar Reddy died in an untoward incident of accidental fall from Train No.471 Vijayawada - Rayagada Passenger on the intervening night of 15/16.10.2007 while travelling from Vijayawada to Anaparthi?
3. Whether the impugned order, dated 12.02.2014, passed in O.A.A.No.402 of 2007 by the Tribunal is liable to be confirmed/ set aside?
4. To what result?

7. POINTS 1 & 2:- To substantiate the claim of the appellant/applicant, the father of the deceased - N. Chandrasekhar Reddy was examined as A.W.1 and got marked Ex.A.1-attested copy of FIR, Ex.A.2-attested copy of Inquest Report, Ex.A.3-attested copy of P.M.E. Report, Ex.A.4-Death Certificate and

Ex.A.5-No Objection Certificate. On behalf of the respondent/Railways, R.Ws.1 and 2 were examined and got marked Exs.R1 and R2, which are DRM's report and statement of RW.1.

8. AW.1, who is father of the deceased, deposed that the deceased purchased journey ticket bearing No.08105968 to travel by Train No.471 passenger from Vijayawada to Anaparti, and had fallen accidentally from the said train on the intervening night of 15/16.10.2007; the journey ticket was found during the course of inquest *panchanama*; the details are also incorporated in the inquest *panchanama*, and ultimately prayed to allow the application.

9. Except the evidence of AW.1, there is no other evidence with regard to the deceased travelling by Train No.471 or falling down from the said train on the intervening night of 15/16.10.2007. In the written statement, the Railways took a specific plea that the relatives of the deceased made an attempt to plant the journey ticket; they have also tried to bribe one M. Subba Rao, who lifted and carried the dead body of the deceased from the spot to Platform No.1, and influenced the police and the guard. The evidence of RW.1 - ASI/RPF reveals that a thorough search was conducted over the dead body, but no journey ticket was found during search, and only four visiting cards were found; thereafter the dead body was folded in a mat and was shifted to platform No.1 by M. Subba Rao; after half-an-hour, some of the relatives of the deceased produced a ticket and Rs.130/- cash and insisted to record the same in the inquest. RW.1 specifically stated that he objected for the same. There is also evidence of RW.1 that he was

present throughout the inquest *panchanama*. Since he is RPF police personnel, his name would not figure in the inquest *pancahnama*. Merely because the name of RW.1 is not finding place in the inquest *panchanama*, it cannot be said that he did not witness the search as deposed by him.

10. The evidence of RW.2, GRP Head Constable 521, reveals that he got the dead body thoroughly checked by M. Subba Rao in the presence of relatives of the deceased and that no ticket was found. He further states that after about half-an-hour after the dead body was lifted from the scene of offence and placed on platform, Sri M. Subba Rao, who lifted the dead body, stated that he found a journey ticket and Rs.130/- cash on the track below the dead body. He further states that he incorporated the details of ticket number in the inquest. Ex.R-1 is the DRM's report, which reveals that a ticket was planted, whereas in the report given by IPF/Rajahmundry to the Sr.DSC/RPF, dated 16.01.2007, it is mentioned that on examining the body by the Railway Authorities, no journey ticket was found with the dead body. DRM report also reveals that the relatives of the deceased made an attempt to plant the journey ticket. Had there been a journey ticket, the same would have been available either near the place of accident or in the apparel of the deceased. No where, the journey ticket was found. Further, it is also contended that the injuries mentioned in PME report are not possible in an incident of accidental fall from a train. The statement of M. Subba Rao was also recorded in the course of statutory inquiry. The gist of the statement made by M. Subba Rao which is also reflected in DRM report would reveal

that on 16.10.2007 some of the relatives of the deceased threatened and wanted him to plant railway ticket and Rs.130/- cash and show the same as recovery from the dead body. All these circumstances would clinchingly establish that no journey ticket was found either with the dead body or at the place of accident, and further the relatives of the deceased made an attempt to plant the journey ticket to claim compensation in the instant case. Therefore, it is held that the deceased was not a *bona fide* passenger.

11. When there is no *iota* of evidence that the deceased was travelling in Train No.471, the question of occurrence of incident of accidental fall from the train does not arise. The dead body was found in between down line at KM No.601/18-30 at Anaparthi yard. Under these circumstances, it is held that the deceased - N. Chandrasekhar Reddy was not a *bona fide* passenger of Train No.471 Vijayawada - Rayagada passenger travelling from Vijayawada to Anaparthi on 15.10.2007 and did not die in an untoward accident of accidental fall from the said train. Accordingly, these points are answered against the appellant/applicant and in favour of the respondent-Railways.

Point No.3:-

12. The Tribunal had elaborately dealt with the contentions and the evidence on record and rightly reached the conclusion dismissing the claim petition. There is no infirmity in the impugned order. There is nothing to take a different view. Hence, the appeal is devoid of merit and is liable to be dismissed.

Point No.4:-

13. In the result, the appeal is dismissed, confirming the order, dated 12.02.2014, passed in O.A.A.No.402 of 2007 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

November 27, 2018
Mgr

