

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.842 of 2010

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act'), is directed against the order, dated 01.09.2010, in O.A.A.No.242 of 2005, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. The appellant in the C.M.A. is the applicant and the respondent in the C.M.A. is the respondent, before the Tribunal. For better appreciation of facts, the parties hereinafter are referred to, as they are arrayed before the Tribunal.

3. The brief facts are that the applicant is aged about 24 years and working as tailor at the time of the accident. On 04.05.2005, after purchasing tailoring material, the applicant purchased a journey ticket for the journey from Guntakal to Pendekallu and boarded Train No.433 Passenger and fell down accidentally from the train while getting into it and sustained multiple injuries resulting in amputation of his right leg below the knee. He stated that he was shifted to the Government Hospital, Kurnool, for treatment by the GRP, who seized his ticket bearing No.38237289. Hence, the applicant filed the application claiming compensation of Rs.3,00,000/-, payable by the respondent/Railways.

4. The respondent/Railways filed written statement denying the averments made in the application and prayed to dismiss the same.

5. The Tribunal, on consideration of oral evidence of A.W.1, R.W.1 and C.Ws.1 & 2 and documentary evidence of Exs.A-1 & A-2, Exs.R-1 & R-1 and Exs.C-1 to C-3, dismissed the application on the ground that the applicant was not a *bona fide* passenger. Aggrieved by the said order, the appellant/applicant filed the present appeal seeking compensation.

6. Learned counsel appearing for the appellant/applicant contended that the applicant was a *bona fide* passenger travelling in the passenger train with a valid ticket; that he died in an untoward incident; that therefore, the Tribunal erred in granting compensation to the applicant.

7. Learned Standing Counsel appearing for the respondent/Railways contended that the deceased was not a *bona fide* passenger as he was not in possession of any ticket as per Ex.C-3-statement of the applicant and hence, he prays to dismiss the appeal.

8. As seen from Ex.C-3-statement of the applicant, which was recorded by an independent person i.e., Railway Police, wherein it is stated that the applicant did not have time to purchase the ticket and he trespassed entering into the Railway premises

through a fencing and in the process of getting into the train, he slipped and fell down and got injured.

9. On the other hand, on perusal of Ex.A-1-original ticket, though it is settled law that a passenger can be treated as a *bona fide* passenger even in the absence of a ticket and if he is facing an untoward accident, he is entitled for compensation, but in the present case, the applicant has not approached the Court with clean hands, i.e., on one hand, he states that he has not purchased the ticket and on the other hand, a ticket has been placed before the Tribunal. Such acts of the applicant cannot be appreciated and the same has to be put an end.

10. In view of the above, this Court finds that the applicant is not eligible for any relief. Hence, the appeal is liable to be dismissed.

11. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 01.09.2010 in O.A.A.No.242 of 2005 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. There shall be no order as to costs.

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

T.AMARNATH GOUD, J

Date: 4th December, 2019

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