

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No. 1148 of 2009

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 30.06.2009, in O.A.A.No.141 of 2004, 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 respondent, and the respondent in the C.M.A. is the applicant, 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 on 10.04.2004, Gorantla Maruti Prasad (hereinafter referred to as 'the deceased') came to Ongole Railway Station at about 12 noon with a view to go to Ammanabrolu and purchased a journey ticket between Ongole to Ammanabrolu and boarded the train No.E157 passenger. When the train reached Ammanabrolu Railway Station, there was heavy crowd of passengers getting in and getting out and while the deceased was trying to get down from the train, the train started suddenly with a jerk, due to which, the deceased slipped and fallen down from the train and sustained injuries and died instantaneously. The mother of the deceased filed the above OAA seeking compensation.

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

5. The Tribunal, on consideration of both oral and documentary evidence available on record, awarded compensation of Rs.4,00,000/- directing the Railways to deposit the amount within a period of two months from the date of the order, failing which it shall carry interest @ 9% per annum till the date of realization.

6. Learned Standing Counsel appearing for the railways-appellant contended that a perusal of Ex.A.4-proper person certificate, which was filed by the respondent/applicant to show that she is dependant of the deceased, was obtained prior to the date of accident and hence, the same cannot be believed and she is not dependant of the deceased. He further submits that the deceased was not a *bona fide* passenger as he was not in possession of ticket; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. On the other hand, learned counsel appearing for the respondent/applicant contended that the deceased was a *bona fide* passenger; that he died in an untoward incident; that therefore, the Tribunal rightly granted compensation and hence, there are no grounds to interfere with the impugned order.

8. Section 124-A of the Act is in the nature of 'no fault liability'. For claiming compensation under the Act, the applicant need not prove the negligence on the part of Railways. If the applicant proves that the deceased died in an untoward incident, then the applicant is entitled for compensation.

9. The Tribunal, relying on the message issued by SS/ANB to GRP/Ongole and also the other evidence on record, came to the conclusion that the deceased was a *bona fide* passenger and that he had fallen down accidentally from the said train and died in an untoward incident, which in the opinion of this Court, does not call for any interference. Since nobody filed any application claiming to be dependant of the deceased, the contention of the railways/appellant that the respondent/applicant is not dependant of the deceased cannot be accepted. Hence, there are no grounds to interfere with the impugned order passed by the Tribunal.

10. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 30.06.2009 in O.A.A.No.141 of 2004 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 12.11.2019
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