

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.980 OF 2007

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 04.09.2007, in O.A.A.No.272 of 2002, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. The appellants in the C.M.A. are the applicants, and the respondents in the C.M.A. are the respondents, 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 27.09.2001, Laika Fatima (hereinafter referred to as 'the deceased') travelled in train No.7085 Secunderabad – Bangalore Express with journey ticket No.11964531 from Secnderabad to Mahabubnagar. In the journey, as she felt vomiting sensation, she went to wash basin in the compartment and suddenly slipped and fell down accidentally from the train between Jadcherla and Mahabubnagar Railway Stations and sustained severe injuries. Immediately, she was shifted to Government Hospital, Mahabubnagar, where she was declared as dead. The applicants 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, came to the conclusion that since the aspect whether respondent No.2 is the legally wedded husband of the deceased could not be ascertained, the application is not maintainable and accordingly, dismissed the OAA without going into other issues.

6. The learned counsel appearing for the applicants contended that the applicants, who are father and mother of the deceased married daughter, are dependants of the deceased and are entitled to seek compensation and hence, she prays to remand the matter for the purpose of deciding whether the deceased was a *bona fide* passenger travelling in a train carrying passengers and she died in an untoward incident. In support of her arguments, she relied on a decision of Madurai Bench of Madras High Court in **Glory Bai V. S.K.A. Noorjahan Beevi** (CMA (MD) No.1122 of 2009 dated 02.03.2011).

7. The learned Standing Counsel appearing for the Railways contended that the Tribunal has passed a well reasoned order and therefore prays to dismiss the appeal.

8. The question that arises for consideration in this appeal is '*whether the applicants are dependants of the deceased or not*'. To decide the same, it is necessary to refer to Section 123 (b) of the Railways Act, 1989 and it reads as under:

“123. Definitions.

In this Chapter, unless the context otherwise requires, -

(a) ...

(b) "dependant" means any of the following relatives of a deceased passenger, namely:-

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried, or is a minor, his parent;

(ii) **the parent**, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, it dependant wholly or partly on the deceased passenger;

(iii) a minor child of a predeceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grand parent wholly dependant on the deceased passenger."

9. Section 123 (b) (ii) makes it clear that 'the parent' of the deceased is a dependant. And, nowhere in the Act, there is any distinction with respect to the status of dependency of parents merely on account of marital status of the deceased, or on account of deceased being a male or female. Therefore, merely because the deceased in the present case happens to be a married woman, it cannot be said that her parents are not her dependents. Therefore, the applicants are dependants of the deceased and are entitled to seek compensation.

10. In **Glory Bai's** case (supra), the Madurai Bench of Madras High Court had an occasion to deal with the similar question and held that the parents of the deceased married daughter are equally entitled to compensation like the parents of the deceased son. In view of the same, the finding of the Tribunal that the applicants are not the dependants of the deceased is set aside.

11. In the result, the Civil Miscellaneous Appeal is allowed setting aside the order, dated 04.09.2007, in O.A.A.No.272 of 2002, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad and remanding the matter to the Tribunal for deciding the matter afresh, in accordance with law, as expeditiously as possible. Both the parties are entitled to lead evidence, if they choose to do so. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 26.11.2019
TJMR

