

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1182 of 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 07.05.2010, in O.A.A.No.526 of 2005, 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 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 on 06.01.2005, Damara Singh Paradesi (hereinafter referred to as 'the deceased') was travelling from Vijayawada to Viravasaram in a train carrying passengers, but because of the heavy rush of passengers, he was standing by the door and due to sudden jerks of the train, he fell down and died at Km.7/4 near the LC Gate at Srungarukshma. The applications 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 the deceased was not a *bona fide* passenger and that he did not fall from the train and dismissed the OAA.

6. Learned counsel for the appellants/applicants submits that the deceased was a *bona fide* passenger travelling in the train with a valid ticket; that he died in an untoward incident; that the finding of the Tribunal is erroneous and prays to set aside the impugned order.

7. On the other hand, learned Standing Counsel for the respondent/Railway submits that as per the contents of the claim petition, the deceased travelled in the train by sitting at the door and hence, it can be said that the deceased has indulged in a prohibited act, thereby subjected himself to the risk of self inflicted injuries. Basing on the same, the Tribunal rightly dismissed the OAA and hence, there are no grounds to interfere with the impugned order.

8. As no ticket was found from the deceased and as the testimony of A.Ws.1 and 2 not worthy, the Tribunal came to the conclusion that the deceased was not a *bona fide* passenger travelling from Vijayawad to Veeravasaram; that he did not fall from the train; and that he might have died due to other reasons. Accordingly, the Tribunal dismissed the aforesaid OAA. As the Tribunal dealt with all the aspects in detail before dismissing the OAA, this Court is not inclined to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 07.05.2010, in O.A.A.No.526 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: 22.11.2019
TJMR

