

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.62 of 2010

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 04.08.2009, in O.A.A.No.121 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 06.05.2004, Racheti Prasanna Kumar (hereinafter referred to as 'the deceased') went to Vijayawada Railway Station, purchased a II class journey ticket from Vijayawada to Elamanchili and boarded train No.7239 Guntur-Visakhapatnam Simhadri Express in II class general compartment. While travelling, he got down from the train at Nidadavolu Railway Station for lunch and again boarded the train, but due to heavy rush of passengers inside the compartment, he was standing at the door of the compartment. While so, suddenly the deceased slipped and fell down accidentally from the train between the platform and the train when it was leaving the platform of Nidadavolu Railway Station and was dragged to a

distance of 68 sleepers and died on the spot. The applicant 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 to the applicant with interest @ 6% per annum from the date of application till the date of award and thereafter @ 9% per annum till the date of actual payment in terms of the judgment of the Apex Court in Civil Appeal No.3658 of 2009 arising out of SLP (C) No.26654/2008 dated 14.05.2009.

6. Learned Standing Counsel appearing for the railways-appellant contended that the deceased was not a *bona fide* passenger as he was not in possession of ticket; that he fell from the train due to his own carelessness and negligence and the injuries sustained by him amounts to self inflicted injuries; that granting of compensation by the Tribunal is not proper and hence, she 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 travelling in the passenger train with a valid ticket; 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. A.W.2, Kantibothu Krishnarao, who is the eyewitness to the incident, deposed that while he was discharging his duty as a Tea vendor at Nidadavolu Railway Station, train No.7239 Guntur-Visakhapatnam Express halted at Nidadavolu Railway Station for an hour and when it was leaving the platform suddenly, the deceased accidentally slipped and fell down from the running train between the platform and the train due to jerks of the train. The body of the deceased was dragged to a distance of 68 sleepers. The Guard of the train, who was examined as R.W.2, deposed that at about 12.55 hours, just after starting the train at Nidadavolu Station, one male person suddenly attempted to entrain the train and slipped and fell down and was cut into pieces and died. By taking into consideration the said evidence and also other evidence on record, the Tribunal came to the conclusion that the deceased was a *bona fide* passenger and his fall from the train is an untoward incident. Accordingly, the Tribunal awarded the compensation. On perusing the order of the Tribunal, I see no ground to interfere with the same and the appeal is liable to be dismissed.

9. In the result, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 04.08.2009, in O.A.A.No.121 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 in this appeal, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20.11.2019
TJMR

