

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No. 71 of 2012

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 12.10.2011, in O.A.A.No.88 of 2006, 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 09.02.2005, Singidi Ramu (hereinafter referred to as 'the deceased'), travelled from Korukonda to Kothavalasa in a train by standing near the door of the general compartment and due to sudden jerks and jolts of the train, he fell down and died between Korukonda and Alamanda stations at KM 829/22 to 829/21 posts. The wife, children and parents 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, dismissed the above 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 the Tribunal rightly dismissed the OAA and there are no grounds to interfere with the impugned order.

8. The applicants filed the present OAA.No.88 of 2006 against South Central Railway. They also filed OAA.No.186 of 2006 against East Coast Railway and the same was dismissed as withdrawn on 13.08.2008. In the said application, the applicants relied upon the evidence of Panduranga Gangadhar and Jonna Krishna seeking compensation. The said OAA.No.186 of 2006 was dismissed as withdrawn and the present OAA.No.88 of 2006 which came for consideration before the Tribunal was also dismissed on merits by answering issue Nos.2 and 3 against the applicants on the ground that the deceased was not a bona fide passenger and not died on account of accidental fall from the train. Aggrieved thereby, the present appeal is filed.

9. There are several discrepancies in the evidence relied on by the applicants and therefore, this Court is not inclined to consider the evidence adduced by the applicants, since A.W.2 deposed that he saw the deceased boarding the train at 10.00 PM., and as per the FIR, the body was reported at 9.00 PM., on the fateful day. In OAA.No.186 of 2006, Panduranga Gangadhar and Jonna Krishna saw the deceased purchasing ticket, but in the present OAA.No.88

of 2006, Gandhi Simhadri Naidu who was examined as A.W.2, deposed that he saw the deceased purchasing ticket at 10.00 PM.

10. Before appreciating any evidence, the conduct of the witness becomes immense necessary to consider and proceed with other facts of the case. The applicants have not approached the Court with clean hands and they cannot take advantage of the laches on the part of the railways with regard to conducting or not conducting proper enquiry and on the DRM's report, which, the Tribunal has discussed elaborately. Hence, this Court feels that the applicants are not entitled for the relief claimed by them and the appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 02.02.2006, in O.A.A.No.88 of 2006, 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.

Date: 27.11.2019
Shr

T.AMARNATH GOUD, J