

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.1337 OF 2008

JUDGMENT:

This appeal is preferred against order dated 30.07.2008 passed in OAA No.264 of 2002 by the Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein, who are wife, daughter and son of the deceased submitted application to Railway Claims Tribunal claiming compensation of Rs.4,00,000/- for the death of P.Nagi Reddy contending that on 27.05.2002 the deceased accompanied by his son and his relative P.Jogi Reddy went to Marripalem Halt Station to go to Pithapuram, purchased three passenger train tickets and boarded an evening passenger train at about 18.30 hours and was standing near the door of the compartment, while traveling, the deceased accidentally slipped and fell down from the train due to jerks, for which the deceased sustained severe head injury and other multiple injuries and that he was shifted to Visakhapatnam Railway Station by next available train by the station staff of Marripalem Railway Station and from there shifted to Railway Hospital, Visakhapatnam for first aid and against shifted to KGH, Visakhapatnam, where he died while undergoing treatment on 28.05.2002 at about 03.15 PM.

3. Railways resisted the claim application of the respondents.

4. Before the tribunal, basing on the contentions, respondents examined AW.1 and marked Exs.A1 to A.5. RWs.1 and 2 were examined and Ex.R.1-copy of DTC was marked on behalf of the railways.

5. On a over all consideration of oral and documentary evidence, Tribunal negated objection of railways and awarded compensation of Rs.4,00,000/-, aggrieved by which, present appeal is preferred.

6. Learned standing counsel for the Railways submitted that the deceased was not a bonafide passenger and that the accident has occurred due to his own negligent act of trying to get down from the moving train before its pre-requisite stop at the station, without ticket, which is not permissible and that the incident do not cover the provisions of untoward incident and that the applicants are not entitled for any compensation under Section 124-A of the Indian Railways Act and hence, prayed to allow the appeal.

7. On the other hand, counsel for the applicants submits that three tickets were purchased by the deceased and that he and his relative and son boarded the train and in the process of getting down from the train, due to jerks, the deceased fell down and that his son, AW.1 is the eye witness to the incident and that the tribunal rightly granted compensation as per decision of the Apex Court in **Union of India v Borra Vijayalakshmi**¹ and appellant is liable to pay compensation.

8. Having regard to the facts and circumstances of the case, the tribunal rightly observed that as per evidence of AW.1 and Ex.A.1 to Ex.A.6 the deceased is a bonafide passenger that the Station Master taken away the tickets from AW.1 and died as a result of untoward incident of accidental fall from the train. The Apex

¹ 2005(2) ALT 86

Court in **Union of India v Rina Devi**² observed that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and the same cannot be denied on the plea of contributory negligence of the victim. Mere absence of ticket with such injured or deceased will not negate the claim that he was a bonafide passenger. As per the decision of the Apex Court if a person falls while trying to get into a moving train or trying to get down from a moving train resulting in death whether possess ticket or not is entitled for compensation. So, in view of principle laid down in the above referred decision, the objection of railways is not tenable. Therefore, the order passed by the tribunal is well considered and needs no interference of this Court.

9. In view of the above, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, shall stand closed.

Dated 13.11.2019
kvrn

T.AMARNATH GOUD,J

²2018(3) ACJ 1441