

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.881 OF 2010

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 08.06.2010, in O.A.A.No.544 of 2005, 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 respondents in the C.M.A. are the applicants, 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 16/17-11-2005, the deceased J.Rama Rao boarded train No.6044 Sarkar Express, and when the train was passing between Vettapalem and Chinagunjam, he slipped and fell down from the train and died. 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 deceased was a *bona fide* passenger, and that he accidentally fell down from the train and died and accordingly, allowed the OAA.

6. The learned Standing Counsel appearing for the Railways contended that the deceased was not a *bona fide* passenger as he was not in possession of ticket; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. The learned counsel appearing for the applicants contended that the Apex Court, in **Union of India V. Rina Devi**¹, held that mere absence of ticket with such injured or deceased will not negative the claim that he was a *bona fide* passenger; that the deceased 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. The Tribunal after appreciating the oral and documentary evidence on record, came to the conclusion that the deceased was a *bona fide* passenger and he fell down from the train accidentally and died. The Apex Court in **Rina Devi**'s case (supra) held that '*mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger*'. The material placed before this Court clinchingly establishes that the deceased accidentally fell down from the train and died and hence, the claimants are entitled to compensation.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the order dated 08.06.2010 in O.A.A.No.544 of 2005 on the file of the Railway Claims Tribunal, Secunderabad Bench at

¹ 2018 SCC Online SC 507

Secunderabad. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 04.12.2019

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