

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.421 OF 2009

JUDGMENT:

This appeal is filed by the appellant-applicant aggrieved by the Order, dated 02.04.2009, passed in O.A.A.No.186 of 2004 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the O.A.A.

3. The brief facts of the case are that initially the application was filed by the mother and unmarried sister of the deceased-Saramandi Srinivasa Rao. On 20.06.2007, learned counsel for the applicants filed a memo stating that applicant No.1 died and hence, the application was amended to include the name of the only one applicant, i.e., the unmarried sister of the deceased. On 22.05.2004, the deceased while travelling by Train No.472 Passenger from Visakhapatnam to Bobbili, with Journey Ticket bearing No.20903434, accidentally slipped and fell down from the train at Korukonda Station and sustained injuries. The Railway authorities shifted him to Government Hospital at Vizianagaram, but he died on the same day in the hospital. Hence, the applicant filed the application claiming compensation of Rs.4,00,000/-.

4. Both the respondents denied the claim made by the applicant.

5. After considering the oral evidence of A.W.1, who is the applicant, and the documentary evidence of Exs.A-1 to A-8 & Ex.R-1, the Tribunal dismissed the application on the ground that though the deceased was a *bona fide* passenger, who died of an untoward incident, the applicant has been unable to establish that she was a dependent of the deceased and hence she is not entitled to any relief. Aggrieved by the said order, the appellant/applicant filed the present appeal, seeking compensation.

6. Heard Sri P.L.Rao, learned counsel for the appellant/applicant and Sri T.S.Venkata Ramana, learned standing counsel for the respondents/Railways. Perused the material record.

7. The finding of the Tribunal with regard to the dependency of the applicant is of no reason since the applicant, who is the unmarried sister of the deceased, is considered as a legal heir as per Section 123(b) of the Railways Act, 1989.

8. Admittedly, in Ex.A2-inquest report, the brother of the deceased Sharamandi Venugopal Rao was shown as the only one blood relative of the deceased. But he produced Ex.A8-No Objection Certificate (Notarised Document) stating that he is

presently working in the army in Jammu & Kashmir and had no objection if the entire share amount for the death of his brother in train accident were paid to his sister. Therefore, the findings recorded by the Tribunal are liable to be set aside and the applicant is entitled for a compensation of Rs.8,00,000/- as per the amended schedule.

9. Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the order, dated 02.04.2009, passed in O.A.A.No.186 of 2004 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. Consequently, O.A.A.No.186 of 2004 stands allowed. The 2nd applicant is awarded a compensation of Rs.8,00,000/-. The respondents/Railways shall pay the compensation awarded within three (3) months from the date of receipt of a copy of this order. On deposit, the applicant is permitted to withdraw the entire amount. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this appeal shall stand closed.

T.AMARNATH GOUD, J

Date: 12th November, 2019

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