

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.1071 OF 2009

JUDGMENT:

This appeal is preferred against order dated 30.01.2009 passed in OAA No.388 of 2003 by the Railway Claims Tribunal, Secunderabad Bench.

2. Appellant herein is the injured submitted application to Railway Claims Tribunal claiming compensation of Rs.2,40,000/- that on 16.06.2003, when the applicant along with her husband went to Yerraguntla on cooli work, while return to their village Nuliveedu, they went to Yerraguntla Station, purchased two second class train journey tickets from Yerraguntla to Cuddapah and boarded train No.1063 Dadar-Chennai express in the 2nd class General compartment and that stand near the door as there was heavy rush of passengers inside the compartment and that when the train leaving the station, she slipped and fell accidentally between the platform and the train due to jerks and hence, her right leg was severally crushed, cut and separated below the knee by wheels of the train, immediately the station staff immediately attended her and that her tickets were lost in the accident.

3. Railways resisted the claim application of the appellant.

4. Before the tribunal, basing on the contentions, AW.1 was examined and marked Exs.A.1 to A3 on behalf of the applicant. RW.1 was examined and Ex.R.1 was marked on behalf of respondent.

5. On a over all consideration of oral and documentary evidence, the Tribunal negatived the version of the applicant and dismissed the claim application though the applicant provided

medical record to prove that her right foot was crushed and amputated up to 4” below the knee and that the authenticity of the record has not been questioned or refuted by the railways, but the applicant failed to prove that she is bonafide passenger.

6. Learned counsel for the applicant submitted that it is a case of fall from train and that the tribunal erred in dismissing the application relying on the certificate issued by the police that the applicant has no ticket and that the tribunal erred in appreciating the evidence available on record and hence, prayed to grant just compensation.

7. Learned standing counsel for the Railways submitted that the deceased was traveling without ticket and thus, he is not a bonafide passenger and that the order passed by the tribunal is well considered and needs not consideration and prayed to dismissed the appeal.

8. A perusal of the material available on record and having regard to the facts and circumstances of the case, the tribunal held that the applicant proved that her right foot was crushed and amputated upto 4” below knee and the same was not questioned or refuted by the railway. It is evident from the record that the applicant is a bonafide passenger that she sustained injuries as a result of untoward incident of accidental fall from the train i.e. she was stand at the door as there was heavy rush and due to jerks. The Apex Court in **Union of India v Rina Devi**¹ 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

¹2018(3) ACJ 1441

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 set aside and the appeal is liable to be allowed and the applicant is entitled for the compensation as per the Gazette notification of Ministry of Railways (Railway Board), dated 22.12.2016, Schedule (see Rule 3) for the injuries sustained by the injured.

9. In view of the above, the appeal is allowed setting aside the order dated 30.01.2009 passed in OAA No.388 of 2003 by the Railway Claims Tribunal, Secunderabad Bench and granted compensation of Rs.4,00,000/- as per schedule. There shall be no order as to costs.

Miscellaneous Petitions, if any, shall stand closed.

T.AMARNATH GOUD,J

Dated 13.11.2019
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