

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.Nos.908 of 2006 and 1026 of 2008

COMMON JUDGMENT:

CMA.No.908 of 2006 is filed by the Railways and CMA.No.1026 of 2008 is filed by the applicants, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act'), against the order, dated 21.06.2006, in O.A.A.No.98 of 2001, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. Since both the appeals arise out of the same O.A.A., they are heard together and disposed of by way of this common judgment. For better appreciation of facts, the parties hereinafter are referred to, as they are arrayed before the Tribunal.

3. The brief facts are that the deceased Seetaramaiah while travelling from Secunderabad to Guntur on 05.03.2001 with a valid ticket bearing No.158497 by train No.2704 (Falaknuma express) in general compartment had an accidental fall when the train was starting from Secunderabad Railway station and fell down on the track of platform No.1, due to which he sustained injuries and died on the spot. The wife, sons and daughters 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, awarded compensation of Rs.4,00,000/- directing the Railways to deposit the amount within a period of two months days from the date of the order, failing which it shall carry interest @ 6% per annum from due date till the date of realization.

6. Learned Standing Counsel appearing for the railways-appellant contended that the Tribunal ought to have seen that the Train Shunter Mr. Venkata Narayana informed the Station Superintendent that one male dead body aged about 70 years lying on platform No.1, basing on such information only, the Station Superintendent gave complaint to GRP, RHC Mr. Syyed Vazie, who is a planted witness. As per the statement of RHC 137 the deceased found alive on platform No.1 in supine position, but the GRP issued a death certificate without medical examination. It is contended that there are no external injuries on the body of the deceased and it is quite impossible to a human body to escape minimum external injuries when a person falls from train, which shows that that he never boarded the train as alleged and the deceased might have died due to some medical problem or natural death even before boarding the train. It is also contended that no post mortem report was filed by the applicants to conceal the cause of death and there is no eye witness to the incident and the Tribunal have presumed that the deceased had fallen from the train and died for the reason that the body was found lying on the platform. Therefore, it can be said that the deceased was not died

due to untoward incident; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. On the other hand, learned counsel appearing for the applicants contended that the deceased was a *bona fide* passenger travelling in the train with a valid ticket; that he died in an untoward incident; that therefore, the Tribunal rightly granted compensation and hence, there are no grounds to interfere with the impugned order and sought to dismiss the appeal by the Railways and to allow the appeal by filed by the applicants by enhancing the rate of interest.

8. Even if it is assumed that the deceased was died due to accidental fall from the running train, there are no external injuries on the body of deceased, which goes to show that there is no untoward incident and the deceased might have died due to health problem or natural death. This aspect of the case has been clearly over looked by the Tribunal and awarded compensation. In the facts and circumstances of this case, this Court is of the considered opinion that the deceased has not died due to an untoward incident and hence, liability cannot be fastened on the railways for the death of the deceased. Therefore, the findings of the Tribunal are not based upon proper appreciation of evidence record.

9. Accordingly, the C.M.A.No.908 of 2006 filed by the Railways is allowed setting aside the impugned order, dated 21.06.2006, in

O.A.A.No.98 of 2001 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad and consequently CMA.No.1026 of 2008 filed by the applicants to enhance the rate of interest is dismissed. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 21.11.2019
ska

