

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.981 of 2010

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act'), is directed against the order, dated 16.08.2010, in O.A.A.No.63 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 21.09.2004, while Ponnada Linga Murthy (hereinafter referred to as 'the deceased') was travelling in an unknown train from Anakapalli to Vijayawada, and when the train reached K.M.No.489/5 near Eluru Railway Station, he 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, awarded compensation of Rs.4,00,000/- directing the Railways to deposit the amount within a period of two months with interest @ 6% per annum from

the date of application till the date of order and thereafter @ 9% per annum till its realization.

6. Learned Standing Counsel appearing for the railways-appellant 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. On the other hand, learned counsel appearing for the respondents/applicants contended that the deceased was a *bona fide* passenger travelling in the passenger 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.

8. Basing on the RPF Inspector's report that the deceased must have been traveling by standing/sitting at the door or foot board and slipped and fell down and received injuries, the Tribunal came to the conclusion that the incident happened while the deceased was traveling in a train. As the Railways could not lead any evidence to prove that the deceased was not a *bona fide* passenger or that the case covers under any of the exceptions listed from (a) to (e) to proviso to Section 124-A of the Railways Act, 1989, the Tribunal came to the conclusion that the deceased was a *bona fide* passenger and died in an untoward incident and awarded compensation accordingly. Hence, I see no ground to interfere with the impugned order passed by the Tribunal.

9. In the result, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 16.08.2010, in O.A.A.No.63 of 2005, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. There shall be no order as to costs. Miscellaneous petitions pending in this appeal, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20.11.2019
TJMR

