

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.884 OF 2009

ORDER:

This appeal is preferred against order dated 05.05.2009 passed in OAA No.129 of 2005 by the Railway Claims Tribunal, Secunderabad Bench.

2. Respondent herein submitted application to Railway Claims Tribunal claiming compensation of Rs.4,00,000/- for the injuries sustained by him contending that on 14.08.2004 he had been to Yadagiri in connection with his work and after finishing his work, came to Yadagiri Railway Station at 05.00 PM and enquired for a train towards Raichur and accordingly, he purchased a ticket to travel in the Link Express from Yadagiri to Raichur by paying Rs.31/- and that after some time the Link Express No.6593 came to the Station and he boarded the general compartment and that when the said train reached Krishna Railway Station, the applicant got down to drink water and again boarded the train and at that time the train started suddenly with jerks, for which the applicant lost balance and fell down in between the train and the platform and his left hand was amputated from the shoulder joint and sustained fracture of 1st to 4th ribs and fracture of left clavicle and that the journey ticket was also lost in the accident.

3. Railways resisted the claim application of the respondent.

4. Before the tribunal, basing on the contentions, respondent was examined as AW.1 and marked Exs.A1 to A.4. RW.1 was examined and Exs.R.1 to R.3 were marked on behalf of the appellant.

5. On a over all consideration of oral and documentary evidence, Tribunal negatived objection of railways and awarded

compensation of Rs.4,00,000/-, aggrieved by which, present appeal is preferred.

6. Learned standing counsel for the Railways submitted that as per Ex.R.1 of DRM no untoward incident or accidental fall of any passenger occurred at Krishna Railway Station on 14.08.2004 to train No.6593 of Link Express and that the claimant was not bonafide passenger as he has not produced journey ticket or ticket was quoted in his application.

7. The tribunal rightly observed that as per Ex.A.1 and A.2, the applicant was involved in an accident of fall from the train and sustained injuries and that except RW.1 stated that there was no incident or report of any untoward incident at Krishna Railway station, railway has not chosen to examine the Investigating Officer of the Government Railway Police, Krishna to elicit as to on what basis the case was registered and also as to why no information was given to the railway administration about the occurrence of untoward incident and that mere pleading in the written statement or any report of any untoward incident is not sufficient to disprove the case of the applicant. 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 negligence of the victim and will not fall under Section 124-A of the Railways Act. 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

¹2018(3) ACJ 1441

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 well considered and needs no interference of this Court.

8. In view of the above, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, shall stand closed.

T.AMARNATH GOUD,J

Dated 08.11.2019
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