

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1102 of 2008

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 27.10.2005, in O.A.A.No.180 of 1999, 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 applicant, and respondent in the C.M.A. is the respondent, 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 13.03.1999 Kukula Rama (hereinafter referred to as 'the deceased') as usual boarded passenger train No.456 to Anakapalli to return to Bayyavaram and from there to his village. Other coolies were also with him but they could not notice his fall about 07.00 PM while the train was near Bayyavaram Railway Station. The mother 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, came to the conclusion that it is a clear case of self inflicted injury by the deceased and dismissed the OAA.

6. Learned counsel for the appellant/applicant submits that the deceased was a *bona fide* passenger travelling in the train with a valid ticket; that he died in an untoward incident; that the finding of the Tribunal is erroneous and prays to set aside the impugned order.

7. On the other hand, learned Standing Counsel for the respondent/Railway submits that the deceased has indulged in a prohibited act, thereby subjected himself to the risk of self inflicted injuries. Basing on the same, the Tribunal rightly dismissed the OAA and hence, there are no grounds to interfere with the impugned order.

8. Since the incident on record is full of doubts and conjectures, extending the benefit of untoward incident is not possible. As the Tribunal dealt with all the aspects in detail before dismissing the OAA, this Court is not inclined to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 27.10.2005, in O.A.A.No.180 of 1999, 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
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