

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.1043 of 2019

JUDGMENT:

This appeal is preferred under Section 23 of the Railway Claims Tribunal Act, 1987 (for short 'the Act') by the claimants against order dated 25.09.2019 passed in OA II(U).No.142 of 2017 by the Railway Claims Tribunal, Secunderabad Bench.

2. The appellants in the C.M.A. are the applicants, and the 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. It is the case of the applicants that the deceased 27 years old was travelling from Hafeezpet to Tadepalligudem on 14.08.2016 holding a valid journey ticket costing Rs.160/- issued at 19.43 hours and while travelling he suffered an untoward incident, which caused his death by accidentally falling from running train at KM No.178/26-28 in between Begumpet – Nature cure railway station on down line. The applicants contended that he was a bonafide passenger and they are the dependents as per Ex.A6 & A.7 and they are entitled for compensation as per the schedule issued by the Ministry of Railways. In support of their contention, the applicants relied upon the judgments of the Apex Court decided in **Union of India v Rina Devi**¹ as well as **Smt. Kaushalaya Devi Vs. Union of India** in LPA.No.1095 of 2001 decided on 16.07.2008. The applicants also relied on Ex.A3-PM report and Ex.A8-inquest report and contended that it is a case of bonafide passenger with untoward incident and thus they are entitled for the claim.

¹2018(3) ACJ 1441

4. The respondent railway filed the written statement contending that the deceased might have fallen from unknown train and the deceased was noticed by key man on 15.08.2016 and no witness is available and ticket issued cannot be relied upon.

5. The Tribunal framed the following issues: (i) whether the deceased was a bonafide passenger of the train in question and died as a result of an untoward incident; (ii) whether the applicants are dependents of the deceased; and (iii) whether the applicants are entitled to the compensation as claimed and (iv) to what relief?

6. The Tribunal failed in appreciating with the issues framed and taking from the main contentions of the applicants and the respondent railways surprisingly drawn conclusion under assumptions and presumptions observing that no train goes from Hafeezpet to Tadepalligudem and rejected the case observing that the claim is illegal and disbelieved the deposition of witnesses.

7. It is needless to observe that once a person leaves the home, it is not to the family members to know the mode of transport he would take from one point to the other point and to further points of destination.

8. Admittedly, there was a ticket found with the deceased and the body was found on the railway track and in the light of Exs.A2, A3 and A8, this Court prima facie believes that the deceased is a bonafide passenger and died as a result of an untoward incident and since the claim is made by the claimants is just, they are entitled for compensation. Since it is a beneficial legislation and for the death caused to the deceased, the innocent

family members left behind cannot be allowed to suffer and this Court feels that it is a fit case to be allowed by following the decisions of the Apex Court supra. As per the amended schedule for payment of compensation for death the schedule has contemplated Rs.8,00,000/-.

9. Accordingly, this Appeal is allowed by awarding a sum of Rs.8,00,000/- compensation to the claimants i.e., claimants Nos.1 & 2 are entitled to Rs.1,00,000/- each and claimants Nos.3 & 4, who are children of the deceased, are entitled to Rs.3,00,000/- each and the amount awarded to claimant Nos.3 & 4 has to be deposited as fixed deposit in any nationalized bank till they attained the age of majority and in case, the interest accrued is required for their education or medical purpose, the claimants can file appropriate application before the trial Court for withdrawal of the same. The order of the Tribunal is set aside. The amount shall be deposited by the respondent within ninety (90) days from the date of this judgment, failing which, interest at the rate of 9% per annum shall be paid on the compensation amount from the date of this judgment till the date of realization. No costs.

Miscellaneous petitions if any shall stand closed.

Date: 20.11.2019
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T.AMARNATH GOUD, J