

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.897 of 2009

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 25.03.2008, in O.A.A.No.309 of 2001, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. The appellants in the C.M.A. are the applicants, 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 18.04.2001, P.Narayana Rao (hereinafter referred to as 'the deceased') went to Palasa Railway Station, purchased a passenger journey ticket from Palasa to Srikakulam and boarded passenger train No.225 in general compartment. While travelling, the deceased slipped and fell down from the train between Naupada and Kotabommali Railway Stations, due to which, he sustained grievous injuries and died on the spot. 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, came to the conclusion that deceased was not a *bona fide* passenger and not involved in an untoward incident and dismissed the OAA.

6. Learned counsel for the appellants/applicants submits that the deceased was a *bona fide* passenger travelling in the train with a valid ticket; that she 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 was not a *bona fide* passenger travelling in the passenger train with a valid ticket; that he died not in an untoward incident; that therefore, the Tribunal rightly dismissed the claim application and prays to dismiss the appeal.

8. As per the contents of Inquest Report, there were no marks of dragging on the body of the deceased. If the deceased had fallen from a running train, there would have been some marks, at least of dragging or rolling, but as per the Inquest Report, there were no such marks. Apart from the same, R.W.1 deposed that as per the Station Masters Dairy entry, no person had fallen down from any running train, much less, from train No.225 passenger on 18.04.2001 at Palasa Railway Station or between Naupada and Kotabommali Railway Stations. Basing on the said evidence, the Tribunal came to the conclusion that the deceased was not a *bona*

fide passenger and that the death of the deceased was not due to untoward incident of accidental fall from the said train and dismissed the aforesaid OAA. 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 25.03.2008, in O.A.A.No.309 of 2001, 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.

Date: 20.11.2019
TJMR

T.AMARNATH GOUD, J

