

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.804 OF 2009

ORDER:

This appeal is preferred against order dated 20.06.2008 passed in OAA No.88 of 2002 by the Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein, who are grand mother and sister of the deceased submitted application to Railway Claims Tribunal claiming compensation of Rs.4,00,000/- for the death of Gopalagari Muralidhar Reddy contending that on 10.04.2001 at about 09.00 PM the deceased along with his friend K.Sarosh to go to Secunderabad from Safilguda to give send off to his friend Srinu, who was going to Bangalore to attend exam, purchased two journey tickets from Safilguda to Secunderabad and boarded train No.668 Push-Pull local passenger and while the deceased was going inside the compartment, slipped and fell down due to sudden jerk, dragged to some distance, for which his right hand was cut and separated and that his friend jumped from the train and shifted the deceased to Gandhi Hospital with the help of railway station staff for treatment, but the deceased died on the way to hospital and he was declared brought dead and that the journey tickets are lost in the accident.

3. Railways resisted the claim application of the respondents.

4. Before the tribunal, basing on the contentions, respondents examined AW.1 and marked Exs.A1 to A.6. RW.1

was examined and Ex.R.1 was 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 the deceased was traveling without ticket and he made an attempt to board running train, which is not permissible.

7. On the other hand, counsel for the applicants submits that two tickets were purchased by the deceased and his friend together and both boarded the train and in the process of boarding the train the deceased slipped and fell down due to sudden jerk of the train and that the tribunal rightly granted compensation as per decision of the Apex Court in **Union of India v Borra Vijayalakshmi**¹ and appellant is liable to pay compensation.

8. The tribunal rightly observed that as per Ex.A.6 – family member certificate that they are dependents of the deceased and that the deceased was bonafide passenger and that the deceased was died in an untoward incident. The Apex Court in **Union of India v Rina Devi**² 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. Mere absence of ticket with such

¹ 2005(2) ALT 86

²2018(3) ACJ 1441

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 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.

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

Miscellaneous Petitions, if any, shall stand closed.

Dated 08.11.2019
kvrn

T.AMARNATH GOUD,J