

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.684 OF 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 28.01.2011, in O.A.A.No.419 of 2007, 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 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. The brief facts are that on 19.08.2007, while Haroon (hereinafter referred to as 'the deceased') was travelling in Parli passenger train with ticket bearing No.03639940 from Nizamabad to Dharmabad, accidentally slipped and fell down from the running train at Jankampet Railway Station 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 the applicants have utterly failed to prove that they alone are the

dependants of the deceased and accordingly, dismissed the OAA without going into other issues.

6. The learned counsel appearing for the applicants contended that as the two daughters of the deceased were already married, they are no longer dependants of the deceased and hence, the applicants did not implead them in the OAA; that the deceased was a *bona fide* passenger travelling in the train with a valid ticket; that he died in an untoward incident; and hence, he prays to set aside the order of the Tribunal.

7. The learned Standing Counsel appearing for the Railways contended that the Tribunal has passed a well reasoned order and therefore prays to dismiss the appeal.

8. To prove the dependency, the claimants filed Ex.A.6, copy of ration card, which shows the names of two daughters and three sons of the deceased. Noticing the same, the Tribunal came to the conclusion that the applicants have purposefully not impleaded the daughters of the deceased; that the applicants have utterly failed to prove that they alone are the dependants of the deceased and accordingly, decided issue No.1 against the claimants. Consequently, the Tribunal dismissed the OAA. The appellant has categorically stated in the grounds of appeal that the other two daughters, who were shown in Ex.A.6, are no longer dependants of the deceased, as they were already married and are living separately. In view of the same, this Court is of the opinion that the Tribunal ought not to have dismissed the OAA on the issue of

dependency and this is a fit case to remand the matter to the Tribunal for deciding afresh.

9. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 28.01.2011, in O.A.A.No.419 of 2007 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside; and the matter is remanded to the Tribunal for deciding the same afresh on merits as expeditiously as possible, since the accident pertains to the year 2007. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

Date: 25.11.2019
TJMR

T.AMARNATH GOUD, J

