

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.272 OF 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 14.12.2010, in O.A.A.No.397 of 2003, 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 respondent, and the respondents in the C.M.A. are the applicants, 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 15.06.2003 the deceased Enmala Chandraiah along with some other persons, while traveling from Peddapalli to Kazipet by a passenger train, accidentally slipped and fell down from the moving train in between Peddpalli – Raghavapuram railway stations and died. 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 a *bona fide* passenger, and that he accidentally fell down from the train and died and accordingly, allowed the OAA.

6. The learned Standing Counsel appearing for the Railways contended that the deceased was not a *bona fide* passenger as he was not in possession of ticket; that the deceased consumed arrack in the nearby hut of the railway station and while walking on the track, he was hit by an unknown train and died; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. The learned counsel appearing for the applicants contended that the deceased died in an untoward incident; that therefore, the Tribunal rightly granted compensation and hence, there are no grounds to interfere with the impugned order.

8. The Tribunal after appreciating the oral and documentary evidence on record came to the conclusion that the deceased was a *bona fide* passenger and he fell down from the train accidentally and died. It is evident from the record that the original railway tickets issued from Peddapalli to Kazipet were filed and the same are traced in the record. Hence, the argument of the learned counsel for the railways that the deceased travelled as a ticket less passenger and he was not a *bona fide* passenger is negated. With regard to the second contention that the deceased consumed alcohol, there is no whisper in the evidence of A.W.2 about the consumption of alcohol by the deceased and the said evidence is not supported by any technical evidence and therefore, the said evidence will not help the case of the railways.

9. In view of the above, the Civil Miscellaneous Appeal is dismissed, confirming the order dated 14.12.2010 in O.A.A.No.397 of 2003 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 20.12.2019

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