

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.347 of 2012

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 19.12.2011, in O.A.A.No.478 of 2006, 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 respondent in the C.M.A. is the applicant, 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 the applicant, her husband Ganta Appala Naidu (hereinafter referred to as the deceased) and their daughter Chandana, travelled in train No.7007 Godavari Express on 26.11.2005 from Hyderabad to Visakhapatnam to go to their native place Bobbili. When the train reached Visakhapatnam on 27.11.2005, two strangers boarded the train and that the strangers administered drug in Idlies and gave the same to the applicant, deceased and their daughter and that they became unconscious and the strangers committed theft of 4 tulas of gold ornaments and the deceased died while undergoing treatment on 28.11.2005. The applicant 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, awarded compensation of Rs.4,00,000/- with interest @ 9% per annum from the date of order, till the date of realization.

6. Learned Standing Counsel appearing for the railways-appellant contended that the deceased died due to the poison administered in the Idlies, but not died in an untoward incident; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. On the other hand, learned counsel appearing for the respondent/applicant, contended that the deceased was a *bona fide* passenger, travelling in the passenger train with a valid ticket; that he 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 applicant filed two tickets for the journey from Hyderabad to Visakhapatnam dated 26.11.2005 and two tickets for the journey from Bobbili to Visakhapatnam vide ticket numbers 16762 and 16763. The contention of the applicant is that they were going to Bobbili from Visakhapatnam, they were administered drugs by strangers and her husband died. However, the tickets produced by her are for the opposite direction i.e., from Bobbili to Visakhapatnam. The applicant filed a petition to amend the particulars of tickets from Visakhapatnam to Bobbili and that the said tickets were seized by the railway police. The contention of the applicant cannot be accepted, because the deceased cannot travel at a time in two different directions.

9. It is also not in dispute that the deceased died due to administration of poison in Idlies. Therefore, it cannot be said that the deceased died in an untoward incident that occurred while travelling in a train. Hence, the applicant is not entitled to any compensation and the appeal is liable to be allowed.

10. Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the order, dated 28.11.2006, in O.A.A.No.478 of 2006, 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: 21.11.2019
Shr

T.AMARNATH GOUD, J

