

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1163 of 2008

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 17.10.2005, in O.A.A.No.79 of 1999, 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 applicant, 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 07.01.1999, the deceased V.Laxmamma boarded the train No.1082 Kanyakumari – Mumbai Express at Renigunta to go to Rajampeta, and while alighting the train at Rajampeta, she slipped and fell down, resulting her death due to the injuries. Son of the deceased 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 death was not occurred due to untoward incident, and dismissed the OAA.

6. Learned counsel for the appellant/applicant submits that the deceased was a *bona fide* passenger traveled 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; that the death of the deceased was not reported to the railway authorities immediately after the incident; that no ticket was recovered from the deceased. Basing on the same, the Tribunal rightly dismissed the OAA and hence, there are no grounds to interfere with the impugned order.

8. It is the case of the applicant that the deceased travelled in the train in question from Renigunta to Rajampeta on 07.01.1999 in the morning hours, but the dead body of the deceased was found at platform No.1 of Rajampeta at KM No. 209/3-4 on 07.01.1999 at 5.00 PM, and the applicant has not produced the ticket for the journey made by the deceased. Hence, it cannot be said that the deceased was a *bona fide* passenger. Therefore, the Tribunal has rightly dismissed the claim made by the applicant and there are no grounds to interfere with the order of the Tribunal.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 17.10.2005, in O.A.A.No.79 of 1999, 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.

T.AMARNATH GOUD, J

Date: 21.11.2019
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