

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.605 OF 2010

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act'), is directed against the order, dated 04.03.2010, in O.A.A.No.268 of 2004, 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 respondents in the C.M.A. are the respondents, 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 28/29.08.2004, while Uppu Chinamma (hereinafter referred to as 'the deceased') was traveling in Train No.248, Pushkara Special Passenger Train, from Vijayawada to Parvathipuram, accidentally she fell down from the train at Bobbili 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 deceased was not a *bona fide* passenger and accordingly, dismissed the OAA.

6. The learned counsel appearing for the applicants contended that the Tribunal deceased was a *bona fide* passenger traveling in the passenger train with a valid ticket; that she died in an untoward incident; that therefore, he prayed to allow the appeal.

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

8. The Tribunal, though held that it is a case of accidental fall and was an untoward incident, dismissed the OAA holding that the deceased was not a *bona fide* passenger on the sole ground that the claim cases in this region are significantly more than in most other parts of the country. It is evident from the guard's message and Ex.R.3-DRM Report that on the way from Bobbili to Parvathipuram, a woman fell down from the train and later a ticket has been found. In view of the same, the finding of the Tribunal that the deceased was not a *bona fide* passenger is set aside and the applicants are entitled to compensation.

9. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 04.03.2010, in O.A.A.No.268 of 2004, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside; and compensation of Rs.8,00,000/- is awarded to the appellants as per the schedule. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 20.11.2019
TJMR