

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.81 OF 2011

JUDGMENT:

This appeal is preferred against order dated 22.11.2010 passed in OAA No.351 of 2006 by the Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein, who are wife and children of the deceased B.Mohan Rao, who is employee in Andhra Bank submitted application to the Railway Claims Tribunal claiming compensation of Rs.4,00,000/- that on 15.08.2005 the deceased informed to his wife that he would go to Nellore to see his ailing mother and that he go by Sullurupeta – Nellore passenger train No.177 and purchased a journey ticket from Nayudupeta to Nellore, while traveling, accidentally slipped and fell down at Venkatachelum Railway Station and died of severe injuries on the spot.

3. Railways resisted the claim application of the respondent.

4. The tribunal, basing on the contentions, wife of the deceased examined as AW.1 and marked Ex.A1-FIR, Ex.A.2 – inquest report, Ex.A.3 – PME report and Ex.A.4 – Proper person Certificate on their behalf and on behalf of Railways RWs.1 to 3 were examined and marked Exs.R.1 to R.3 and came to the conclusion that the claimants are entitled for just compensation as per schedule.

5. Learned standing counsel for the Railways contended that the death of the deceased caused due to self inflicted and self negligence Act and that it is not fall from train or untoward incident as defined under Section 123C of the Railways Act and that the deceased is not a bonafide passenger and that the ticket

was not recovered from the deceased and hence, prayed to allow the appeal.

6. Learned counsel for the claimants contended that it is a genuine case that on the way from Naidupeta to Nellore at Venkatachalam Railway Station, the deceased died due to fall from train and it is not a case of trespass or anything and there is every possibility of losing the ticket in the incident and it cannot be presumed that in the absence of ticket with the passenger when he died, he is a ticketless traveler and hence, the order passed by the tribunal is well considered and needs no interference of this Court.

7. Heard both sides.

8. *Prima facie*, purport of the beneficial legislation cannot be denied and in the event if the railways wish to deny the compensation, the railways have to make out a case beyond reasonable doubt. The burden lies on the railways to deny the benefit extended in favour of the injured or deceased person by the legislation, this Court is not inclined to accept the contention of the railways. Admittedly, there is no eye witness to the incident that the deceased trespassed the railway tract. As per evidence of RW.3 – Inspector, RPF stated that the deceased was hit by a train and died on the spot. There is no other evidence that the deceased hit by train and no details have been provided by the railways in support of their argument. Since the body of the deceased was found in the railway premises, it is to be reasonably presumed that he is a bonafide passenger as per the evidence of RW.1 wherein he informed AW.1, to whom the deceased informed that he is proceeding to Nellore to visit his mother. Under presumptions and assumptions, the legitimate right conferred upon the claimants by

the beneficial legislation cannot be denied unless the railways prove their case beyond reasonable doubt. Since the railways failed to prove their case that the deceased died due to his wrongful act amounting to self inflicted or self negligence, this Court is of the opinion that the order passed by the tribunal is well considered and needs no interference of this Court and accordingly, the appeal is liable to be dismissed. Learned counsel for the railways submitted that in pursuance of the interim order, an amount of Rs.2,57,450/- with interest has already been deposited and the balance amount has to be deposited.

9. In view of the above, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, shall stand closed.

Dated 26.11.2019
kvrn

T.AMARNATH GOUD,J