

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.233 OF 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 31-07-2001, in I.A.No.221 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 petitioner, and the 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 07.01.1998, while the husband of the applicant viz., K.Venkateswara Rao, was travelling from Vijayawada to Guntur by train No.6040, slipped and fell down accidentally from the running train in between Tettu and Kavali railway stations and died on the spot. The applicant filed the above I.A., stating that due to the ignorance of the fact that she is entitled for compensation, could not file the claim petition within the prescribed time and hence, she filed the claim petition with a delay of 344 days.

4. Railways filed counter 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 applicant has not properly explained the delay and accordingly, dismissed the I.A.

6. The learned counsel appearing for the applicant contended that the Tribunal failed to appreciate the fact that the appellant is an un-educated and financially weak to come over to Hyderabad and engage an Advocate and that she has no knowledge of filing claim petition within a period of one year from the date of accident. He further submitted that the Act itself is a beneficial legislation and claimants cannot be deprived of their right of getting compensation from the respondent and therefore, she 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 therefore prayed to dismiss the appeal.

8. In view of the fact that the Act is a beneficial legislation, dismissing the application on the technical grounds, amounts to depriving the legitimate rights conferred on the appellant, therefore, the appeal is liable to be allowed.

9. Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the order, dated 31.07.2001 in I.A.No.221 of 1999, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad and remanding the matter to the Tribunal for deciding the matter afresh, in accordance with law, as expeditiously

as possible. Both the parties are entitled to lead evidence, if they choose to do so. Since the matter pertains to the year 1999, the Tribunal shall dispose of the same as expeditiously as possible. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 26.11.2019
TJMR

