

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No. 997 of 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the order, dated 26.02.2010, in O.A.A.No.254 of 2005, 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 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 14.07.2003, Gutti Yodharam (hereinafter referred to as 'the deceased'), while travelling from Pandillapalli to Chirala by a train, standing by the door because of heavy rush of passengers, he fell down from the train near Pandillapallil, due to jerks and jolts and died. The parents 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 deceased

is not a *bona fide* passenger and did not fall from the train in an untoward incident, and dismissed the OAA.

6. Learned counsel for the appellants/applicants submits that the deceased was a *bona fide* passenger travelling in the train with a valid ticket; that he died in an untoward incident; that the finding of the Tribunal is erroneous and he prays to set aside the impugned order.

7. On the other hand, learned Standing Counsel for the respondent/Railway submits that there is no evidence to show that the deceased had travelled in the train and fell down from it and hence, the Tribunal rightly dismissed the OAA and he prays to dismiss the appeal.

8. The contents of FIR or the Inquest Report do not show that the deceased had travelled in the train and fell from it. Apart from the same, there was no evidence to show the said aspect. In those circumstances, the Tribunal came to the conclusion that the deceased might have died on account of any reason, but not on account of fall from a train. The material placed before the Court does not establish that the deceased accidentally fell down from the train and died. Having regard to the facts and circumstances of the case, I see no ground to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 26.02.2010, in O.A.A.No.254 of 2005,

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: 28.11.2019
TJMR

