

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.85 OF 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 13.04.2011, in O.A.A.No.23 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 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 24.02.2004, while the deceased Bylapati Siddi Ramulu was travelling from Secunderabad to Tandur in Rajkot Express, he accidentally slipped and fell down from the running train at Chittigadda 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 as the wife of the deceased was not made a party, the applicants alone are

not entitled to seek compensation and accordingly, dismissed the OAA.

6. The learned counsel appearing for the applicants contended that the wife of the deceased deserted him 15 years ago and as her whereabouts were not known, they did not make her as party to the OAA; that therefore, the finding of the Tribunal is to be set aside and hence, he prays 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, he prays to dismiss the appeal.

8. It is evident from the impugned order that the Tribunal dismissed the OAA on the sole ground that the wife of the deceased was not made a party to the application. It is the case of the applicants that the whereabouts of the wife of the deceased are not known to them, as she deserted the deceased 15 years ago, and hence they did not make her party to the OAA. In the circumstances, to give one more opportunity to the applicants, this Court is inclined to remand the matter to the Tribunal for deciding the issue afresh.

9. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 13.04.2011 in O.A.A.No.23 of 2005 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside; and the matter is remanded to the Tribunal for deciding the same afresh on merits as expeditiously as possible.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 03.12.2019
TJMR

