

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1404 OF 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 30.08.2010, in O.A.A.No.354 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 01.12.2004, the deceased, A.Koteswara Rao, left home informing his wife that he would go to Ongole and then to Vijayawada, and he started off with one Battula Plaiah, and came to Tanguturu Railway Station and boarded Train No.435 Tirupathi-Ongole passenger. In the journey, he accidentally slipped and fell down from the train at Km.No.272/18-20 near Tanguturu station yard and died. 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 not died in an untoward incident of fall from a train and accordingly, dismissed the OAA.

6. The learned counsel appearing for the applicants contended that the deceased was a *bona fide* passenger travelling in the passenger train with a valid ticket; that he 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 therefore prayed to dismiss the appeal.

8. Though the applicants could not prove that the deceased had a valid ticket, it cannot be said that the deceased was not a *bona fide* passenger. A perusal of the record, it is evident that the deceased was a working as Gangman in South Central Railway. His job is to move on the tracks and he spends his major time in travelling in trains as well as in the railway stations. Though it is not known with regard to cause of the death of the deceased, it cannot be treated as a suicidal death or he was knocked by a speeding train basing on the conclusions in the DRM report. Having regard to the facts and circumstances of the case, I am of the considered opinion that the deceased died as a result of an untoward incident of accidental fall from the train.

9. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 30.08.2010 in O.A.A.No.354 of 2005 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is

set aside; and compensation of Rs.4,00,000/- is awarded to the appellants along with interest @ 7.5% per annum from the date of claim petition till the date of this judgment. The respondent/Railways shall pay the compensation awarded within three (3) months from the date of this judgment, failing which, interest at the rate of 9% per annum shall be paid on the compensation amount from the date of this judgment till the date of realisation. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

Date: 05.12.2019
TJMR

T.AMARNATH GOUD, J

