

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No. 1164 of 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 03.12.2010, in O.A.A.No.488 of 2005, 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 respondent, and the respondent in the C.M.A. are the applicant, 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 18.10.2005, the deceased, Fareed Basha, boarded train No.405 passenger from Vinukonda to Nallapadu to go to Guntur from Nallapadu with season ticket No.44524623 and while travelling, he fell down accidentally near Guntur station, sustained severe injuries and died on the spot. The mother 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, awarded compensation of Rs.4,00,000/- directing the Railways to deposit the amount within

a period of three months from the date of receipt of a copy of order, with interest @ 9% per annum.

6. Learned Standing Counsel appearing for the railways-appellant contended that the deceased died on account of the self inflicted injury, but not on account of accident as defined under Section 124 of Railways Act; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. On the other hand, learned counsel appearing for the respondent/applicant 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, the Tribunal rightly granted compensation and hence, there are no grounds to interfere with the impugned order.

8. In the message of the SS/Guntur issued at the time of accident, it was mentioned that the deceased slipped from the train. The DRM has investigated and accepted that this is a case of fall from the train of a *bona fide* passenger. The respondent did not produce any evidence to show that the case falls in the exception clauses in the Railways Act. By referring to the same, the Tribunal came to the conclusion that the deceased was a *bona fide* passenger and awarded compensation. Hence, there are no grounds to interfere with the impugned order passed by the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 03.12.2010 in O.A.A.No.488 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

