

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.140 OF 2006

JUDGMENT:

This appeal is filed by the appellant-Railways aggrieved by the Order, dated 23.11.2005, passed in O.A.A.No.148 of 2002 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the O.A.A.

3. The brief facts of the case are that applicants 1 & 2 are the parents and 3rd applicant is the sister of the deceased-Tholu Sudha Venu Madhav. On 01.04.2002 at 10.10. a.m., the deceased had boarded Train No.6045 (Navjeevan Express) at Tenali Railway Station to go to Chennai having a ticket where studying in evening college and the 1st applicant accompanied him to Tenali Railway Station. While the deceased stood at the door of the compartment, due to sudden jerk, he slipped and fell down. Hence, the applicants filed the above said O.A.A. claiming compensation of Rs.4,00,000/-, payable by the Respondent/Railways.

4. The respondent/Railways denied the averments made in the application and prayed to dismiss the same.

5. After considering the oral and the documentary evidence on record, the Tribunal awarded compensation of Rs.4,00,000/-

directing the Railways to deposit the amount within a period of 60 days from the date of order, failing which interest @ 6% per annum to accrue from the date of order till payment.

6. Heard Smt. Bala Jayasree, learned standing counsel for the appellant/Railways and Sri A.K.Kishore Reddy, learned counsel for the respondents/applicants. Perused the material record.

7. It is the case of the appellant/Railways that the deceased was not a *bona fide* passenger and the accident was not an untoward accident, but the said accident had resulted by the negligence of the deceased passenger in boarding the train from the outside and that there is no evidence to say that the deceased was travelling by Train No.6045 (Navjeevan Express) at Tenali Railway Station to go to Chennai and there is no eye witness and even the guard has not seen the deceased falling from the train and hence, the applicants are not entitled for any compensation.

8. The Tribunal has categorically dealt with the matter and has appreciated the evidence placed before it and held that the deceased was a *bona fide* passenger and the accident has taken place at Platform No.3 in Tenali Railway Station and there was a ticket with the deceased person and inquest was also taken place immediately after the accident. Since the appellant/Railways have not chosen to led any oral evidence and

not placed before the Tribunal any documentary evidence in support of its contention. Having failed before the Tribunal, the appellant/Railways cannot improve their case in the appeal. Hence, the appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 23.11.2005, passed in O.A.A.No.148 of 2002 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad (for short, the Tribunal). There shall be no order as to costs.

Miscellaneous petitions pending in this appeal, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 3rd January, 2020

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