

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1100 OF 2011

JUDGMENT:

This Civil Miscellaneous Appeal is directed against the Order, dated 20.09.2010, passed in O.A.A.No.182 of 2005, by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal), whereby the tribunal granted compensation on the ground that the deceased was bonafide passenger and died on account of an untoward incident of fall from train as per inquest report and that the claimants are dependants of the deceased.

2. The brief facts of the case are that the deceased was the Chairperson of MPEA School, BP Colony, Garividi, Vizianagaram District, while he was returning from Tirupathi with a valid ticket and traveling in Tirupama Express, between 12 midnight and 2 AM of 19.06.2000, when the train reaching Pedda Vadlapudi Station, he accidentally fell down from the train and was run over by it and the same was noticed by keyman N.K.Prasad, but the claimants stated in the Panchanama that the deceased was going to the toilet, he fell down.

3. Railways resisted the claim application of the claimants.

4. Basing on the contentions, the tribunal examined A.Ws.1 and 2 and marked Exs.A.1 to A.7 on behalf of the claimants and no oral or documentary evidence was adduced on behalf of the respondent.

5. Originally, claim petition was filed by the claimants 1 and 2 and when the 1st claimant died, his legal heirs claimants 3 to 6 were added.

6. Learned standing counsel for the railways submitted that there is no oral or documentary evidence that the deceased fell from train and

died and that the deceased was not bonafide passenger as Ex.A.4 indicates that the incident happened on account of unknown train on 19.06.2000 and that there is inordinate delay in filing the claim petition and that the name of the deceased was not figured in the reservation charge and hence, prayed to allow the appeal setting aside the order passed by the tribunal.

7. Learned Counsel for the claimants contended that the Tribunal has passed a well reasoned order and therefore, prays to dismiss the appeal.

8. For the purpose of claiming compensation under Section 124-A of the Railways Act, 1989 (for short, the Act), two requirements have to be satisfied, firstly, there must be untoward incident whereunder a person died or sustained injuries and secondly that he was a *bona fide* passenger of the train. Untoward incident includes a person falling from the running train accidentally. Secondly, a person who died or sustained injuries must be a *bona fide* passenger travelling in the train with a valid ticket. If these requirements are proved, then the applicant is entitled for compensation. If the Railways want to resist the claim, it has to prove that no untoward incident had happened or deceased was not a *bona fide* passenger travelling in a train carrying passengers or such a case falls under anyone of the exceptions as provided under proviso to Section 124-A of the Act.

9. The accident occurred and the deceased died in the intervening night between 12 midnight and 2 am of 19.06.2000 and claim petition was filed in the month of June, 2002 and the case was registered in the year 2005 and the same was though condoned, if it is linked with the claim and the manner in which the incident occurred and hence, with

regard to the bona fide passenger it creates doubt in the mind of the Court. The claimants have not proved the same before the tribunal or in the appeal. Admittedly, the name of the deceased was not figured in the reservation chart of Tirumala express train, though he was holding a sleeper class ticket. The said ticket was also not filed in support of the claim of the claimants. In view of the same, the appeal is liable to be allowed.

10. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 20.09.2010, passed in O.A.A.No.182 of 2005 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, is set aside; and OAA is dismissed.

Miscellaneous petitions, if any, shall stand closed.

Date: 03.01.2020
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T.AMARNATH GOUD, J

