

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.945 OF 2012

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 04.08.2011, in O.A.A.No.103 of 2004, 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 19.03.2004, the deceased Avula Mangamma went to Bapatla Railway Station, with a view to go to Tenali, purchased 2 journey tickets. At about 12.30 noon, when the deceased was walking on platform No.2, the Train No.2841 Coromandel Express came from Tenali side, and due to the speed, accidentally the saree of the deceased was caught into the train, as a result of which, the deceased was dragged by Train No.2841 and she fallen down between the train and the platform and sustained grievous injuries and died instantaneously at Bapatla Station. 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 of the train and died not as a result of accidental fall from the train and accordingly, dismissed the OAA.

6. The learned counsel appearing for the applicants contended that the Tribunal erred in coming to the conclusion that the cause of death of the deceased is not as a result of accidental fall from the train and that the Tribunal has not appreciated the facts on proper perspective, and therefore, he prays to set aside the impugned order and grant compensation to the appellants.

7. The learned Standing Counsel appearing for the Railways contended that there was no untoward incident happened in this case and the deceased was not a *bona fide* passenger; that hence, the Tribunal rightly dismissed the claim of the appellants and that there are no grounds to interfere with the impugned order, and hence, she 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. 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 is has to prove that no untoward incident had happened or deceased was not a *bona fide* passenger travelling in a train carrying passengers or its case falls under anyone of the exceptions as provided under proviso to Section 124-A of the Act.

9. The death of the deceased is not in dispute. The fact that the deceased was waiting on platform by purchasing a ticket is not denied or disputed. The death of the deceased, as evidenced by Exs.A.1 and A.2, is not in dispute. It is the case of the applicants that while the deceased was walking on platform No.2 of Bapatla Railway Station, accidentally her saree was caught into the Train No.2841, as a result of which, the deceased fell down between the train and the platform and died. The Tribunal, dismissed the OAA on the ground that as the accident had not occurred either at the time of boarding or alighting, the case does not fall under the ambit of Sections 124 and 124-A of the Act.

10. A.W.1, Nagamma, who is an eyewitness to the incident, stated that while she and the deceased were walking on the platform of Bapatla Railway Station, suddenly the train No.2841 Coromandel Express came from Tenali side towards Madras and while passing from the platform of Bapatla Railway Station, accidentally the saree of the deceased came into contact of the train, as a result, the deceased was dragged and fell between the train and the platform and her body was cut into pieces. The Tribunal did not consider the said evidence, but proceeded to dismiss the OAA on the ground that the accident had not occurred either at the time of boarding or alighting and the case does not fall under the ambit of Sections 124

and 124-A of the Act. When the deceased died accidental contact of her saree with the train, when she was on platform, it can be said that the deceased died in an untoward incident. Therefore, the finding of the Tribunal in this regard is set aside and the applicants are entitled to compensation.

11. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 04.08.2011 in O.A.A.No.103 of 2004 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside; and compensation of Rs.8,00,000/- is awarded to the appellants. 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.

T.AMARNATH GOUD, J

Date: 03.01.2020

TJMR