

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.125 OF 2017

JUDGMENT:

This appeal is filed by the appellant-Railways aggrieved by the Order, dated 22.01.2016, passed in O.A. II (U) No.291 of 2005 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 the 1st applicant is the wife and applicants 2 to 4 are the children of the deceased-B.Mohan Rao. On 20.09.2002, the deceased while travelling from Kharkeli to Bolsa with ticket bearing No.404116, accidentally fell down from the train at KM No.404/15-16, sustained multiple injuries and died. Hence, the applicants filed the above said application claiming compensation of Rs.4,00,000/- from the respondent/Railways.

4. The respondent/Railways filed written statement denying the averments made in the application and prayed to dismiss the same.

5. After considering the oral evidence of A.W.1 and the documentary evidence of Exs.A-1 to A-5, the Tribunal awarded compensation of Rs.4,00,000/- directing the Railways to deposit the amount within a period of two (02) months with interest @ 6%

per annum from the date of application till the date of order and thereafter @ 9% per annum till its realisation.

6. Heard Sri T.S.Venkata Ramana, learned standing counsel for the appellant/Railways and Sri N.Gangadhar, learned counsel for the respondents/applicants. Perused the material record.

7. Admittedly, the deceased was travelling as a *bona fide* passenger under valid ticket bearing No.404116, as reflected in the inquest report, which is marked as Ex.A-1. The only point raised by the appellant-Railways is with regard to the negligence on the part of the deceased as he fell down from the train accidentally. But for the negligent act committed by the deceased, the appellant/Railways cannot be penalised.

8. The Apex Court in a decision reported in **Jameela and others v. Union of India**¹ has categorically dealt with regard to the manner in which negligence of the criminal act and self-inflicted injuries have to be looked into and has drawn a difference and held that the Railways cannot deny their liability on the ground of negligence. Following the same, the present appeal is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 22.01.2016, passed in O.A. II (U)

¹ 2010 ACJ 2453

No.291 of 2005 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad. The applicant is permitted to withdraw the amounts deposited by the appellant/Railways. There shall be no order as to costs.

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

T.AMARNATH GOUD, J

Date: 10th January, 2020

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