

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**CIVIL MISCELLANEOUS APPEAL No.1258 OF 2011**

**JUDGMENT:**

This Civil Miscellaneous Appeal is directed against the Order, dated 06.05.2011, passed in O.A.A.No.182 of 2007, by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal), whereby the tribunal dismissed the claim petition on the ground that the deceased was not bona fide passenger as the ticket expired by 12.30 night of 30.03.2007 and the dead body was found in the night of 30<sup>th</sup> and that the postmortem was conducted on 31<sup>st</sup> at 02.45PM and the said postmortem report shows that the death was caused prior to 12 to 18 hours and that the ticket produced in the evidence was not valid for a night train.

2. The brief facts of the case are that on 31.03.2007 the wife of the deceased G.Chandrasekhar Reddy was informed by Kacheguda Railway Police that someone with a mobile phone and a telephone diary had fallen from an unknown train between Vidyanagar and Jamai Osmania Railway Stations and come to identify him and hence, when she went on 01.04.2007, the police informed her that the deceased had railway ticket No.00064738 from Fatehnagar to Vidyanagar.

4. Railways resisted the claim application of the claimants.

5. Basing on the contentions, the tribunal examined AW.1 and marked Exs.A.1 to A.9 on behalf of the claimants and RWs.1 and 2 were examined and marked Exs.R.1 to R.4 on behalf of the respondent-railways.

6. Learned counsel for the claimants contended that the deceased was a *bona fide* passenger; that he died in an untoward incident; that the Tribunal ought to have granted compensation and hence, he prays to allow the appeal.

7. Learned Standing Counsel for the Railways 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 its case falls under anyone of the exceptions as provided under proviso to Section 124-A of the Act.

9. The tribunal has rejected the claim of the claimants on the ground that the deceased was not bonafide passenger as the ticket produced was expired by 12.30PM of 30.03.2007 and that the postmortem was conducted on 31.03.2007. It is categorically mentioned in Ex.A.3-postmortem report that the deceased died due to head injury around 12 to 18 hours prior to postmortem. The Apex Court in **Union of India v**

**Rina Devi**<sup>1</sup> observed that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and the same cannot be denied on the plea of contributory negligence of the victim. Mere absence of ticket with such injured or deceased will not negate the claim that he was a bonafide passenger. As per the decision of the Apex Court if a person falls while trying to get into a moving train or trying to get down from a moving train resulting in death whether possess ticket or not is entitled for compensation. So, in view of principle laid down in the above referred decision, the objection of railways is not tenable. Therefore, the deceased was bonafide passenger and died in an untoward incident and the appeal is liable to be dismissed.

10. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 06.05.2011, passed in O.A.A.No.182 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, is set aside; and compensation of Rs.8,00,000/- is awarded to the appellants as per Schedule along with interest @ 6% per annum from the date of petition till the date of this judgment. 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. The wife of the deceased is entitled for Rs.4,00,000/- and the children of the deceased are entitled for Rs.2,00,000/- each. There shall be no order as to costs.

Miscellaneous petitions, if any, shall stand closed.

**T.AMARNATH GOUD, J**

Date: 03.01.2020  
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<sup>1</sup>2018(3) ACJ 1441