

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.209 OF 2011

JUDGMENT:

This appeal is filed by the appellant-Railways aggrieved by the Order, dated 06.10.2010, passed in O.A.A.No.86 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 husband and applicants 2 to 4 are the sons of the deceased-Pasupula Ramanamma. On 05.05.2004 the deceased was travelling in Train No.418 Passenger, standing by the door of the general compartment and due to the heavy rush and because of the jolts and jerks of the train, she accidentally fell down and succumbed to her injuries in the hospital while undergoing treatment. The ticket was stated to be missing. The case was dismissed for default in October, 2007, and restored in June, 2008. 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 filed written statement denying 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 three (03) months from the date of the order, with interest @ 6% per annum from the date of order till the date of payment.

6. Heard Sri T.S.Venkataramana, learned standing counsel for the appellant/Railways and Sri Y.Koteswar Rao, 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 by standing by the door of the general compartment and due to the heavy rush and because of the jolts and jerks of the train, the deceased accidentally fell down and succumbed to injuries 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 did fall from the train and was not a beggar woman and she might have had a ticket and her ticket might have been lost in the accident and that she was a *bona fide* passenger. 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 06.10.2010, passed in O.A.A.No.86 of 2005 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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