

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL NO: 221 OF 2019

Appeal under Section 23 of Railway Tribunal Act against the Judgment/Order and Decree in O.A. II (U) NO. 107 of 2014 of dated 04-10-2017 on the file of the Court of the Honourable Railway Claims Tribunal Secunderabad Bench, at Secunderabad.

Between:

K. Leena Josna Devi, W/o. Chindu Raja Rahesm Aged about 28 years, Occ Housewife, R/o. D.No. 4-20-30, Alcot gardens, Rajalunundry, East Godavari District, Pin 533 101.

...APPELLANT

AND

Union of India, rep. By its The General Manager, South Central Railway, Secunderabad.

...RESPONDENT

Counsel for the Appellant: SRI N.S. GEETHA MADHURI, ADVOCATE

Counsel for the Respondents: - - -

The Court made the following: JUDGMENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL No.221 OF 2019

JUDGMENT:

Aggrieved by the Order dated 04-10-2017 in O.A (II) (U) No.107 of 2014 passed by the learned Railway Claims Tribunal, Secunderabad Bench, the applicant in the said OA preferred this Civil Miscellaneous Appeal.

2. According to the grounds urged by the appellant in the present appeal, the main grievance of the applicant is that the Tribunal below adopted very narrow minded approach, in spite of the fact that the Act is beneficial piece of legislation. Thereby she sought for setting aside the Order and sought for an opportunity.

3. According to the Judgment filed along with the appeal and as per other record, it shows that O.A (II) (U) No.107 of 2014 has been filed by the applicant herein for compensation on account of death of K.Ramadevi in a train accident that occurred on 31-12-2013. The appellant is the daughter of the said K.Ramadevi.

4. The said application was filed by the appellant/applicant for compensation of Rs.10,00,000/- in view of the death of K.Ramadevi, who is no other than the mother of applicant. According to the allegations made in the application, it is the case of appellant herein that on 31-12-2013, the deceased K.Ramadevi along with her sister went to their native village, in their return journey both went to Anakapalle railway station in the morning hours. She has purchased a 2nd class combined super fast train journey ticket from Anakapalle to Rajahmundry and boarded Train No.12805 Vishakapatnam - Secunderabad Janmabhoomi super fast express in a 2nd class general compartment, while traveling the deceased Ramadevi went to toilet and from there to wash basin and while washing her hands, she accidentally slipped and fell down from the running train and she suffered severe head injury and other multiple fatal injuries and died on the spot. In view of the said accident, his daughter filed the above said O.A. which was resisted by the respondent i.e., General Manager, South Central Railway, Secunderabad.

5. The respondent opposed the claim and filed written statement denying the material averments of the petition and put the applicant to strict proof of her case.

6. On the basis of the rival contentions, issues have been framed and matter was adjourned from time to time, for trial. However, on 04-10-2007 the application of the applicant herein was dismissed in view of the non-prosecution of the case.

7. It appears from the record that the learned member of Railway Claims Tribunal, Secunderabad found that the applicant did not come forward to adduce evidence in spite of number of adjournments granted to her, thereby, dismissed the claim application. Even though, it is stated in the order that the claim application is dismissed on merits, the contents of the order clearly show that the appellant/applicant did not adduce any evidence and the dismissal of O.A. is resulted in view of her failure to produce evidence and to prove her claim. Therefore, it is very clear that the application filed by the applicant herein was not decided on merits but was decided due to her failure to produce the evidence.

8. Applicant has filed the present Civil Miscellaneous Appeal against the said Order and the learned counsel for the applicant has submitted that no proper opportunity was given to the applicant herein to submit her case before the Tribunal. Learned counsel has further submitted that the applicant and other persons who filed similar applications filed a memo before the Tribunal with a request to refer the matter before Lokadalath and it was bonafide request and therefore sought for an opportunity to contest their claim.

9. As could be seen from the Order challenged in the present Civil Miscellaneous Appeal, it shows that though the matter was adjourned from time to time for number of adjournments, the applicants herein did not choose to produce any evidence.

10. Learned counsel representing the respondent herein submitted that there are no bonafides in the Civil Miscellaneous Appeal and that the application itself is a fake claim and the same is liable to be dismissed.

11. It may be true that the applicant failed to adduce evidence in spite of number of adjournments but the application

cannot be decided without giving any opportunity. The applicant is entitled to fair chance of producing evidence and proving her claim. Therefore, it is a fit case for remanding the matter to the Tribunal below, with a specific direction to dispose the same on merits by giving opportunity to both parties.

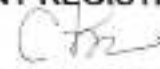
12. In view of the above discussion, this Civil Miscellaneous Appeal is disposed of by remanding the matter to the Railway Claims Tribunal, Secunderabad Bench, and in O.A (II) (U) No.107 of 2014 is restored. The Railway Claims Tribunal, Secunderabad Bench is directed to dispose of the above OA by giving reasonable opportunity to both parties, for adducing evidence and submitting their respective arguments. The Tribunal shall dispose of the OA within 6 (Six) months from the date of receipt of records.

13. With the above directions, this Civil Miscellaneous Appeal is disposed of. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions, pending if any, shall stand closed.

//TRUE COPY//

SD/- K. SRINIVASA RAO
JOINT REGISTRAR


SECTION OFFICER

To,

1. The Railway Claims Tribunal Secunderabad Bench, at Secunderabad (with records)
2. One CC to SRI N.S. GEETHA MADHURI, Advocate [OPUC]
3. Two CD Copies

BN PMG.

HIGH COURT

DATED:20/09/2022



JUDGMENT

CMA.No.221 of 2019

⑤ pml.
16/12/22

**DISPOSING AND REMANDING CMA,
WITHOUT COSTS**