

THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

CIVIL MISCELLENOUS APPEAL NO.177 OF 2022

ORDER :

Aggrieved by the Judgment dated 09-10-2017 in O.A (II) (U) No.464/2012 passed by learned Railway Claims Tribunal, Secunderabad Bench, by which their application for compensation was dismissed, the applicant in the said OA preferred this Civil Miscellaneous Appeal.

2. According to the grounds urged by the appellants in the present appeal, the main grievance of the applicants is that the Tribunal below adopted very narrow minded approach, in spite of the fact that the Act is beneficial piece of legislation. Thereby, they sought for setting aside the Judgment 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.464/2012 has been filed by the appellants herein for compensation on account of death of Sri A.Chiranjeevi (hereinafter referred as to 'the deceased') in an untoward incident.

4. The said application was filed with an allegation that the deceased with a view to attend contract labour work along with his friend and mason, namely, Sri Chennamsetti Seshu Babu, went to Narsipatnam railway station, in the night of 29.01.2012, the said Sri Chennamsetti Seshu Babu purchased a passenger train journey ticket from Narsipatnam to Vijayawada and boarded Train No.57272 Rayagada-Vijayawada passenger, while travelling the deceased accidentally slipped and fell from the running train at KM No.682/7-9 between Tuni and Gullipadu railway stations, as a result, he sustained severe multiple injuries and died on the spot.

5. The respondent opposed the claim and filed written statement denying the material averments of the petition and put the applicants to strict proof of their 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 09.10.2017 the application of the appellants herein was dismissed on merits.

7. The appellants have filed the present Civil Miscellaneous Appeal against the said Judgment and

learned counsel for the appellants has submitted that no proper opportunity was given to the appellants herein to submit their case before the Tribunal. Learned counsel has further submitted that the appellants and other persons, who filed similar applications filed a memo before the Tribunal with a request to refer the matter before Lok Adalat and it was bonafide request and therefore sought for an opportunity to contest their claim.

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

9. 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.

10. It may be true that the appellants failed to adduce evidence inspite of number of adjournments but the application cannot be decided without giving any opportunity. The appellants are entitled to fair chance of

producing evidence and proving their 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.

11. In view of the above discussion, this Civil Miscellaneous Appeal is allowed by remanding the matter to the Railway Claims Tribunal, Secunderabad Bench, and in O.A (II) (U) No.464/2012 is restored. The Railway Claims Tribunal, Secunderabad Bench, is directed to dispose of the above O.A. by giving reasonable opportunity to both parties, for adducing evidence and submitting their respective arguments. The Tribunal shall dispose of the said O.A. within six(6) months from the date of receipt of records.

Pending miscellaneous applications, if any, shall stand closed. No costs.

JUSTICE SAMBASIVA RAO NAIDU

DATED 18.10.2022

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