

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

CIVIL MISCELLANEOUS APPEAL No.501 OF 2021

ORDER:

The appellants are wife and children of one Mudili Rama Rao who died in a rail accident dated 19-02-2015. They have filed this present Civil Miscellaneous Appeal against the order of the Railway Claims Tribunal, Secundeabad (hereinafter will be referred as Tribunal) in the miscellaneous application filed by the appellants herein before the Tribunal with a prayer to condone the delay in filing application for compensation in view of death of the said Mudili Rama Rao. The Tribunal vide its order dated 18.08.2021, dismissed the application. Being aggrieved by the said order, the appellants preferred the present appeal on the following grounds.

2. The Tribunal committed an error in dismissing their application without properly appreciating the facts and circumstances of the material available on record. The appellants herein have filed similar application before the

Railway Claims Tribunal, Amaravati Bench. But, the same was not pressed in view of jurisdiction issue. Thereby, the Tribunal ought to have considered the application by condoning the delay in approaching the Tribunal for compensation. They have also claimed that the Tribunal failed to know that no similar application was pending before another Bench and in view of Section 109 of Railways Act, the claimants have to file the petition before the Tribunal which is having jurisdiction over the place where the accident occurred. As per the record placed by the appellants, they are originally hails from Pamulavalasa of Vijayanagaram District of Andhra Pradesh State, whereas the accident occurred at Vikarabad. They have filed the application for compensation before Amaravati Bench and later they have not pressed the application and presented another application before the Tribunal at Secunderabad. However, the Tribunal rejected the application in view of the delay in presenting the petition.

3. Heard learned counsel for the appellants as well as standing counsel for the respondent.

4. Learned counsel for the appellants has submitted that the applicants are poor people with village background. They have no knowledge about the place where they are supposed to file application for compensation. They were under the mistaken impression that they have to file application only at Amaravati, in view of their residence being Pamulavalasa Village of Vijayanagaram District. Subsequently, they have realized their mistake and wanted to file application before appropriate Court. But, in view of the above stated circumstances, there was a delay, which can be condoned with liberal view.

5. Whereas learned standing counsel for the respondent has submitted that the copies of docket proceedings filed along with the present appeal, shows the negligence of the appellants in approaching the Court. Thereby, the Tribunal rightly dismissed their application and sought for dismissal of the present appeal.

6. Now the point for consideration is:

Whether the order dated 18.08.2021 passed by the Tribunal is liable to be set aside?

7. POINT:

The order impugned in the present appeal is as follows:

The applicants had first filed the case in Railway Claims Tribunal at Amaravati who did not register the case raising some objections. Instead of clearing those objections, counsel for the appellants has tried to file case at Secunderabad which is not correct. The applicants are from Bobbili and the Railway Claims Tribunal, Amaravati is nearest to them. The counsel for the appellants should observe the objections raised by the Railway Claims Tribunal although there is nothing preventing the applicants in filing the case here, it will set a bad precedent. The applicants could have resubmitted the application before the Railway Claims Tribunal, Amaravathi, addressing the objections raised by them. But, in view of the failure only their application was dismissed.

Therefore, from the above order it shows the Tribunal rejected the application on the ground that there was earlier application filed by the applicants at Railway Claims Tribunal, Amaravati and since it was returned with objections the counsel could have represented the same instead of approaching the Tribunal at Secunderabad. The other reason for dismissing the application is on the ground that if such application is entertained it would be a bad precedent. The subsequent order dated 18.12.2020, in the same application shows that the Tribunal received a letter from Railway Claims Tribunal, Amaravati wherein it was informed that the counsel for the appellants herein was admonished for filing an application by misrepresenting before the Tribunal at Amaravati.

8. According to the averments made in the affidavit filed in support of their application, the appellants as well as the deceased hails from Pamulavalasa of Vijayanagara District. However, the accident occurred while the appellants and deceased were travelling from Vikarabad to Secunderabad on 19.02.2015. The wife of the deceased

filed affidavit on oath and submitted that they have boarded Palnadu express and travelling from Vikarabad to Secudnerabad and when the deceased went to bath room to attend calls of nature, he accidentally slipped from running train and fell down, thereby he received severe injuries on the head and upper parts of the body and died instantaneously. A case in Crime No.14 of 215 was registered by Railway Police, Vikarabad under Section 174 Cr.P.C. She has also submitted that soon after their recovery from the sudden death of the deceased, they have approached an Advocate at Bobbili which is very close to their native and on the legal advice they filed an application at Amaravati Tribunal. It seems the said application was returned on the ground that the accident occurred within the jurisdiction of Railway Claims Tribunal, Secunderabad. The 1st appellant has further stated that subsequently they have obtained the entire record and filed another application before the Railway Claims Tribunal, Secunderabad. However, in view of the above stated circumstances there was delay of 1633 days

which is not intentional, thereby they prayed for condoning the delay and allow them to filed application before the Tribunal.

9. As per Section 109 of Railways Act, the claimants have to file application for compensation before the Tribunal which is having jurisdiction over the place where the accident occurred. Therefore, they have got valid ground to approach the Tribunal at Secunderabad. The Railways Act which provides provision for claiming compensation on account of an untoward accident is a piece of beneficial legislation. Therefore, the Tribunal could have given a liberal view while entertaining such application. If really the appellants are not having ground, their application would be dismissed on merits. But, the same cannot be dismissed at the threshold itself. Therefore, the delay can be condoned and the matter is returned to the Tribunal for registering the application under appropriate provision and decide the same on merits.

10. In the result, the Civil Miscellaneous Appeal is allowed, the docket Order of Tribunal dated 18.08.2021 in M.A.No.9 of 2020 in D.D.R.No.74 of 2020 is set aside and the matter is remanded to Tribunal. However, there shall be no order as to costs.

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

JUSTICE SAMBASIVA RAO NAIDU

Date: 11-11-2022

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