

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

**FRIDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL NO: 1155 OF 2019

Appeal under Section 23 of the Railway Claims Tribunal Act aggrieved by the judgment and Order passed in O.A.II.(u).No. 353/2017 dated 16-10-2019 on the file of the Hon'ble Railway Claims Tribunal Bench at Secunderabad,

Between:

1. Ajmera Sithaanayak, S/o Ajmera Surya Nayak, Aged about 42 years, occ. Agriculture,
2. Ajmera Kavitha, W/o Ajmera Sithaanayak. Aged about 40 years, occ. Coolie.

Both are r/o H.No.1-63/3, Rebbena, Adilabad District (Presently Komarambheem District).

...APPELLANTS/APPLICANTS

AND

The Union of India, Rep by its General Manager, South Central Railway, Rail Nilayam, at Secunderabad.

...RESPONDENTS

Counsel for the Appellants: SRI. S CHANDRASEKHAR

Counsel for the Respondents: ANJALI AGARWAL

The Court delivered the following: JUDGMENT

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.M.A.NO.1155 of 2019

JUDGMENT:

The parents of one Ajmera Sai Kumar an 18 years student, who died in a rail accident, are appellants in this appeal: They being aggrieved by the judgment by the Railway Claims Tribunal, Secunderabad Bench, which dismissed their original application vide OA II (U) No.353 of 2017, by which the claim of the appellants herein for compensation of Rs.8,00,000/- on account of the death of their son in the rail accident was denied, they filed the present appeal.

2. The appellants have claimed that the Tribunal dismissed their application without proper appreciation of the facts. They have claimed that the Tribunal ought to have seen that the deceased traveled from Asifabad to Peddapalli in Bhagyanagar Express train after purchasing valid ticket and he accidentally fell down from the running train in the middle of the way and died due to the grievous injuries caused in the accident.

3. They have also claimed that the appellants herein have produced oral evidence of AW.1, AW.2 and marked Exs.A1 to A10 but the Tribunal without appreciating their evidence simply relying on DRM Report without any oral evidence, dismissed their claim.

They have also pleaded that there is a finding by the Tribunal that the appellants herein are the dependants of the deceased, therefore, the Tribunal ought to have seen that as per the evidence of AW.2, she was also traveling in the train on 17-08-2017, the deceased went to bathroom and accidentally fell from the train. Soon after knowing the incident, she along with his friends got down at the next station and reported the same to the railway authorities. The Railway Protection Force took the statement of another friend by name Eshwari but the Tribunal without considering the evidences simply dismissed their claim, therefore, they sought for setting aside the order of the Tribunal and for compensation of Rs.8,00,000/- with costs and interest @ 9% per annum from the date of claim petition.

4. As could be seen from the record placed before this Court, the appellants herein filed O.A.II (U) No.353 of 2017 with a plea to award a sum of Rs.8,00,000/- towards compensation. As per the averments made in their application, it shows that the deceased was a student studying Diploma in Mining Course at Peddapally. Three days prior to the accident, he came to his native place and after spending three days, he started at 3.30 a.m., from the house on 17-08-2017, he along with his brother went to railway station, he purchased a ticket and boarded Bhagyanagar Express. However, while the train was in transit, he accidentally

fell down from the compartment, having found the said fall, the co-passengers got down the train at the next station and informed the same to the railway authorities. The dead body of the deceased was found in between Mandhamarri and Mancherial, and number of persons gathered at the place of accident. Key man has reported the matter to Dy. Station Superintendent, Mancherial, a case was registered and subsequently investigated by the concerned police. The respondent disputed the claim, filed a written statement denying material averments.

5. The Tribunal framed 4 issues for trial. During enquiry, A.Ws.1 and 2 are examined on behalf of the appellants besides marking of Exs.A1 to A10. The respondent did not examine any witness but filed Ex.R1, DRM report. The Tribunal did not believe the claim of appellants and having held that there was no scope for any person who went to bathroom to fell from a running train, because there was a big gap between the doorway and bathroom, dismissed the application.

6. Now the point for consideration is :

Whether the Tribunal committed error in dismissing the application of the appellants herein? If so, whether the appellants are entitled to compensation as sought for ?

7. The learned counsel for the appellants has submitted that the material placed before the Court clearly shows that the

deceased along with his brother went to railway station, he has purchased a valid ticket which was found on the dead body of the deceased at the place of accident. A complaint was lodged before the police and basing on the said report, F.I.R. was registered which clearly shows that the deceased fell from the running train. The learned counsel further argued that there is evidence before the Court to believe that AW.2 and other persons also traveled along with the deceased and they found the deceased fell down from the running train which amounts to untoward incident, therefore, the appellants are entitled to compensation but the Tribunal without considering the oral evidence and Exhibits marked on behalf of the appellants simply dismissed the claim on the ground that there is no scope for any person to fell from a running train if really he went to bathroom therefore, he prayed for setting aside the order and sought for compensation.

8. The material documents placed before the Court including Exs.A1 to A10 shows that basing on the report presented by one S.Sathyanarayana through Dy. Superintendent, Mancherial, a Crime was registered under Ex.A1. Ex.A1 was registered at 6.50 a.m., on 17-08-2017. According to the contents of Ex.A1, it is quite clear that a male unidentified dead body was found at 255/2-4 down line between Mandhamarri and Mancherial stations. Ex.A3 is the Inquest conducted by the railway police, Mancherial. As per

this inquest, the mediators who attended the inquest including the eye-witnesses of the accident, opined that the deceased boarded Bhagyanagar Express at 3.30 a.m., and he was traveling from Asifabad to Peddapalli, he accidentally fell down in between Mandhamarri and Mancheri. The inquest clearly shows that he has purchased a valid ticket to travel in the train. The other record including the statements recorded by the concerned police indicates that the deceased while going to bathroom during that early hours accidentally fell down from the train. The evidence available on record indicates that the deceased started his journey at 3.30 a.m., his dead body was found before 6.00 a.m., the complaint was registered at 6.50 a.m., Therefore, the observations made by the Tribunal that there was no scope for a person to fall down from a train etc., are liable to be set aside for the reason that in view of the odd hours, he must have accidentally fell down from the running train. The evidence clearly indicates that the death was due to fall from a running train which is very much supported by evidence of AW.2. The respondent did not examine any witness to negative the claim of appellants herein. There is no evidence to believe that the death was suicidal death. There is a possibility of such fall from a running train during the odd hours. In the absence of any proof that it was a suicide, it is an untoward incident. Therefore, the observations made by Tribunal are liable

to be set aside. The evidence both oral and documentary, proved the death of the deceased in an untoward incident. Therefore, the appellants are entitled to compensation.

9. In the result, the appeal is allowed. The respondent/railway is directed to pay compensation of Rs.8,00,000/- with costs of the petition and interest @ 9% from the date of accident till the amount is realized.

Consequently, Miscellaneous applications if any, are closed.

Sd/- C.V. MALLIKARJUNA VARMA
JOINT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Railway Claims Tribunal Bench at Secunderabad.(with records, if any)
2. One CC to SRI. S CHANDRASEKHAR, Advocate [OPUC]
3. One CC to M/s ANJALI AGARWAL, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

SSRN, J

DATED: 14/10/2022



JUDGMENT

CMA.No.1155 of 2019

Allowing the Appeal

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