

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

**MONDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

CIVIL MISCELLANEOUS APPEAL NO: 898 OF 2019

Appeal Under section 23 of Railway claims Tribunal Act, against the Judgment Dated 18-07-2019 made in O.A II (U) No.281 of 2017 on the file of the Court of the Railway Claims Tribunal Secunderabad Bench.

Between:

1. Mahammad Rasheeda, W/o.Late Md.Subhani, Aged about 34 Years, Occ. House wife R/o.2-76, Bapujipet, Madhira Mandal, Khammam District
2. Mahammad Shabana, D/o.Late Md Subhani, Aged about 11 Years, Occ. Student R/o.2-76, Bapujipet, Madhira Mandal, Khammam District

(Applicant No.2 being minor represented by her mother and natural guardian, applicant no. 1)

...APPELLANT/APPLICANT

AND

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

...RESPONDENT

Counsel for the Appellant : Ms. N.S Geetha Madhuri

Counsel for the Respondent : Sri G. Sampada (SC FOR CENTRAL GOVT)

The Court delivered the following:

THE HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

CIVIL MISCELLANEOUS APPEAL No.898 OF 2019

J U D G M E N T:

This Civil Miscellaneous Appeal is filed by applicants under Section 23 of the Railway Claims Tribunal Act, 1978 (for short 'Act') aggrieved by Judgment dated 18.07.2019 in OA (II) (U) No.281 of 2017 (impugned Judgment) on the file of the learned Railway Claims Tribunal Secunderabad Bench at Secunderabad (hereinafter referred to as 'the Tribunal'), wherein claim application filed by applicants claiming compensation of Rs.14,00,000/- for the death of Sri Mahammad Subhani (hereinafter referred to as 'deceased'), was dismissed.

02. For the sake of convenience, hereinafter, the parties are referred as per their array before the learned Tribunal.

03. The brief facts of the case are that applicant Nos.1 and 2 who are wife and daughter of the deceased filed a claim application seeking compensation of Rs.14,00,000/- on account of death of the deceased in an untoward incident.

04. According to applicants, deceased who was resident of Madhira, Khammam District was working in a cycle shop and after informing his wife, went to Dornakal to the house of his

younger brother Md.Khaja and borrowed some money. In return journey, deceased in the afternoon hours of 31.10.2016 having purchased a second class ordinary ticket No. APA01832676 boarded train No.77291 Bhadrachalam Road to Vijayawada Passenger in general compartment, informed the same over cell phone to his wife and younger brother and left Dornakal for Madhira. Due to heavy rush, deceased slipped and fell down accidentally from said running train at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations. Having suffered severe head injury and other multiple fatal injuries, he was found on 01.11.2016 by the concerned Railway Keyman and some other railway staff, shifted him in 108 ambulance to GGH, Khammam and admitted therein, but he died while undergoing treatment at 11:45 hours. Hence, applicants filed claim application claiming compensation of Rs.14,00,000/- from respondent-Railways.

05. Respondent-Railways filed Written Statement along with DRM report, denying the averments of the claim application stating that there is no eye witness to the alleged accidental fall, either from co-passenger or any other passenger, no ACP and when said alleged train accident happened in broad day light, it would not have gone unnoticed by all. By filing DRM report on

examination of many documents and statement of guard it was concluded that no witness has seen the deceased with injuries at the said spot on 01.11.2016. The Guard of the train No.77291 passenger had categorically stated that he did not receive any complaint from any passenger and also there was no any alarm chain pulling taken place and he did not experience any type of jolts or jerks for the said train in the above section. The deceased body was found at Mortuary of Government Hospital, Khammam, and Railway journey ticket was found with the dead body of the deceased. Hence, respondent is not liable to pay compensation and prayed to dismiss the claim application.

06. Based on the pleadings of the parties, the learned Tribunal framed the following issues:

- i. Whether the deceased was a bonafide passenger of the Train in question and died as a result of an untoward incident ?
- ii. Whether applicants are dependents of the deceased?
- iii. Whether applicants are entitled to compensation as claimed?
- iv. To what relief?

07. Before the learned Tribunal, in order to substantiate their claim, applicant No.1 was examined as AW1 and got marked

Exs.A1 to A13. On behalf of respondent-Railways, no oral evidence was adduced but DRM report was marked as Ex.R1.

08. After considering both oral and documentary evidence placed on record, the learned Tribunal has dismissed the claim application of applicants vide impugned Judgment. Aggrieved by the same, applicants have preferred the present Civil Miscellaneous Appeal.

09. Heard Ms.N.S.Geetha Madhuri, learned counsel for appellants-applicants and Sri G. Sampada, learned Standing Counsel for Respondent and perused the record.

10. The main contention of learned counsel for applicants-appellants is that though applicants have proved their case by adducing cogent and convincing evidence and also by relying upon the Exs.A1 to A13, the learned Tribunal without considering the same erred in dismissing the claim application. Hence, prayed to allow this Appeal by setting aside the impugned Judgment.

11. *Per contra*, learned Standing Counsel appearing for respondent argued that after considering all the aspects the Tribunal has rightly dismissed the claim application and the

interference of this Court is unwarranted and prayed to dismiss the present Civil Miscellaneous Appeal.

12. Now the point for consideration is:

Whether impugned Judgment passed by learned Tribunal is liable to be set aside and if so, whether applicants are entitled for compensation as claimed for?

POINT:

13. This Court perused the documents and evidence placed on record by both the sides.

14. Applicant No.1 who is wife of the deceased was examined as AW1 and she reiterated the contents of claim application. Appellants apart from adducing oral evidence, also relied upon documentary evidence in Exs.A1 to A13. A perusal of Ex.A1-Original journey ticket which is valid second class ordinary ticket bearing No.APA01832676 from Dornakal Junction to Madhira, Ex.A2-Message from SS to GRP/RPF wherein it is mentioned that unknown male person severely injured at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations and noticed time is 08:00. Ex.A3-Report of untoward incident discloses that unknown male person severely injured at KM.No.510/17-19 in between Chintakani and Bonakalu Railway

Stations and shifted to Government Hospital by 108 Ambulance. Ex.A4-First Information Report discloses that shows that a case in FIR No.111 of 2016 was registered by the Police, Khammam and took up investigation. A perusal of inquest report under Ex.A5 also shows that inquest was done in the presence of panch witnesses, wherein at column No.15 it is mentioned that the deceased fallen accidentally from Train No.77291 at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations and the deceased sustained head injury and died on 01.11.2016 at about 11:45 hours and that the deceased purchased Ex.A1-journey ticket. Ex.A6-Ration card, Ex.A12-copy of new ration card, Ex.A13-Dependent certificate issued by Tahsildar, Ex.A7 to A9-aadhar cards of the deceased, applicant No.1 and applicant No.2 respectively, categorically shows that applicants are wife and daughter of the deceased. Ex.A10-Postmortem examination report also shows that the death of the deceased was due to 'head injury leading to intra cerebral bleed and death'. Ex.A11-Death certificate of the deceased.

15. Now coming to the evidence adduced by respondent Railways, no oral evidence was adduced, but Divisional Railway Manager Report was got marked under Ex.R1. A perusal of the said Ex.R1-DRM report discloses that statements of some

witnesses were recorded during the course of enquiry wherein Sri K.Balasatyam, Keyman/Bonakalu stated he found one injured at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations and noticed time is 08:00 and that injured was shifted to hospital with the help of 108 Ambulance. Sri B. Subbarao, SI/RPF/Lingampally, Hyderabad also categorically stated that during the course of investigation in Crime No.111 of 2016 he went to Government Hospital and came to know that the deceased died while undergoing treatment and he found Ex.A1-railway journey ticket with the deceased. Sri Md. Amzad, Dy.SS/Khammam stated that on 01.11.2016 at about 08:00 hours he received information from Balasatyam, Keyman, one male person seriously injured was found at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations, on receiving such information, he issued memo to GRP/Khammam and RPF/Khammam for further action. Sri Devendra Purty, Passenger Guard under control of CCC/BZA/SC stated that on 31.10.2016 Train No.77291 left Dornakal at about 15:30 hours and reached to Nagulavancha halt at 16:36 hours and departed at 16:37 hours and arrived to Bonakalu at 16:43 hours departure 16:45 hours and reached Vijayawada Railway Station at 18:35 hours. There was no alarm chain pulling took place at KM.No.510/17-19 in

between Chintakani and Bonakalu Railway Stations. Therefore, the contents of Ex.R1-DRM report establish that the deceased was traveling in the said train with valid railway journey ticket under Ex.A1.

16. Learned Tribunal has dismissed claim of applicant on the ground that there was no eyewitness to the incident. It is pertinent to note that during the course of investigation, Keyman/Bonakalu, SI/RPF/Lingampally, Hyderabad, Dy.SS/Khammam, have categorically stated about an untoward incident happened at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations and that a seriously injured male person was noticed and that injured was shifted to hospital with the help of 108 Ambulance and that the deceased died while undergoing treatment and Ex.A1-railway journey ticket was found with the deceased and that on 01.11.2016 at about 08:00 hours memo was issued to GRP/Khammam and RPF/Khammam for taking further action, with regard to untoward incident. In view of the above Railway official statements, the occurrence of untoward incident on the fateful day i.e., on 31.10.2016 at KM.No.510/17-19 in between Chintakani and Bonakalu Railway Stations, is established. There is no dispute that the deceased having purchased a second class ordinary ticket No. APA01832676

boarded train No.77291 Bhadrachalam Road to Vijayawada Passenger in general compartment.

17. Under these circumstances, it is clear that there is no dispute that the deceased fell down from train and was holding valid journey ticket. Therefore, he can be termed as *bona fide* passenger, who accidentally fell down from running train and the same is clearly established. Furthermore, respondent-Railways has not adduced any cogent and convincing evidence to disprove the case set up by applicants. In the said circumstances, this Court is of the considered opinion that the impugned Judgment passed by the learned Tribunal suffers from perversity and interference of this Court into the said findings is necessary. The Tribunal has committed error in dismissing claim application filed by applicants and claim application is liable to be allowed by granting compensation to applicants.

18. Coming to the quantum of compensation, in a case of death in an accident which occurred before amendment i.e., on 26.01.2014, the prevailing basic figure in respect of death case was Rs.4,00,000/-, which has been subsequently enhanced to Rs.8,00,000/- as per the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2016. Therefore,

this Court is of the considered opinion that applicants are entitled for compensation of Rs.8,00,000/- for death of the deceased.

19. In the result, the Civil Miscellaneous Appeal is allowed and Judgment dated 18.07.2019 in OA(II)(U) No.281 of 2017 on the file of the learned Railway Claims Tribunal, Secunderabad Bench at Secunderabad, is set aside and applicants are granted compensation of Rs.8,00,000/-. Respondent-Railways is hereby directed to deposit the compensation before the learned Tribunal within a period of two months from the date of receipt of a copy of this Judgment. On such deposit, applicants are equally entitled to withdraw the same without furnishing any security. There shall be no order as to costs.

As a sequel, the miscellaneous applications, if any pending, shall stand closed

Sd/- M. VIJAYA BHASKER
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The General Manager, South Central Railways, Secunderabad.
2. The Railway Claims Tribunal Secunderabad Bench. (With records if any)
3. One CC to Ms. N.S Geetha Madhuri, Advocate [OPUC]
4. One CC to Sri G. Sampada (SC FOR CENTRAL GOVT) [OPUC]
5. Two CD Copies

DL

Pa

HIGH COURT

DATED:22/04/2024

JUDGMENT

CMA.No.898 of 2019



ALLOWING THE C.M.A.

*7 copies
by
19/10/24*