

APHC010355302019



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

THURSDAY, THE TWELFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 488/2019

Between:

1.B RAJESWARI, D/O LATE SIVA, AGED ABOUT 23 YEARS, OCC. STUDENT, UNDER GUARDIAN SHIP OF A. GURUSWAMY, S/O VEERAAIAH, AGED ABOUT 61 YEARS, BROUGHT ON RECORD BY THE ORDER IN I.A. NO.475/2011, DATED 09.12.2011))R/O H.NO. 77.61.6/1, WARD NO.24, PIPULA ROAD, PAYAKAPURAM COLONY, VIJAYAWADA, KRISHNA DIST.

...APPELLANT

AND

1.UNION OF INDIA, Rep. by its General Manager, South Central Railway, Secunderabad.

...RESPONDENT

Appeal Under Section _____ against orders The order made in OA II (U) No.444/2009, dated 05.08.2019 on the file of Railway Claims Tribunal, Amaravathi Bench, at Guntur.

Counsel for the Appellant:

1.INAMPUDI NAGESWARA RAO

Counsel for the Respondent:

- 1.PASALA PONNA RAO (SC FOR CENT GOVT.)
- 2.J U M V PRASAD (CENTRAL GOVERNMENT COUNSEL)

The Court made the following:

JUDGMENT:-

Aggrieved by the dismissal order dated 05.08.2019 passed by the Railway Claims Tribunal, Amaravati bench in OA/II/u/444 of 2009 filed by the appellant/applicant, this appeal is filed.

2. The appellant is the daughter of the deceased and the respondent is the South Central Railway, Secunderabad, being represented by its General Manager. It is the case of the claimant that on 03.05.2009, the deceased along with his sister-in-law (A.W.2) reached Secunderabad railway station at about 04.00 p.m., purchased a journey ticket to Vijayawada and boarded train No.2714 – Satavahana Express. During their journey, the deceased is said to have slipped accidentally and fell down from the running train at KM No.243/14-16 between Bhongir and Wangapalli railway station and died. Thus, the claimant filed an application before the Tribunal seeking compensation for the death of her father in an incident that occurred on 03.05.2009.

3. The application was opposed by the respondent by filing a written statement denying the averments made in the application. It further contended that there was no eye witness to the alleged accidental fall of the deceased and that the deceased was not a bonafide passenger as no ticket was recovered from his dead body. Thus, requested to dismiss the application filed by the applicant.

4. During the course of trial, the appellants got marked Exs.A1 to A5 and got examined A.Ws.1 and 2. On behalf of the respondent, the report of the Divisional Railway Manager (Ex.R1) was marked.

5. Basing on the above pleadings, the Tribunal framed the following issues for trial:

1. *Whether the Application is maintainable?*
2. *Whether the Applicant(s) is/are dependant(s) of the deceased?*
3. *Whether the deceased was a bonafide passenger of the train in question while travelling from Secunderabad to Vijayawada?*
4. *Whether the deceased died as a result of an untoward incident of accidental fall from the train?*
5. *Whether the Applicants are entitled to the compensation as claimed by them in the application?*
6. *To what relief?*

6. The Tribunal, after going through the material available before it, came to a conclusion that the deceased was not a bonafide passenger of the subject train as the time of death as per the postmortem certificate is before forenoon of 03.05.2009 whereas the deceased is said to have boarded the train at 04.00 p.m. Observing thus, the Tribunal has dismissed the application filed by the applicant vide the impugned judgment dated 05.08.2019.

7. Heard Mr. I. Nageswara Rao, learned counsel for the appellant and Smt. Uma Devi Manchala, learned Standing Counsel for the respondent.

8. The case of the claimant is that the deceased along with A.W.2 – sister in law of the deceased, reached Secunderabad railway station at about 04.00 p.m., on 03.05.2009 and the deceased is said to have purchased a journey ticket to Vijayawada and boarded a train No.2714. The sister in law of the deceased (A.W.2) has filed a sworn affidavit stating that on the fateful day, she has accompanied the deceased to

Secunderabad railway station where the deceased had purchased II class journey ticket to Vijayawada and a platform ticket for herself. She has specifically stated that she saw the deceased entering the train No.2714, after which she left the station. Though a journey ticket was not recovered either from the dead body of the deceased or its surroundings, the claimants have discharged their responsibility of proving that the deceased was a bona fide passenger by filing an affidavit in support of the same.

9. Time and again the Hon'ble Supreme Court of India in catena of judgments held that mere absence of ticket with an injured or deceased will not negative the claim that he was a bona fide passenger and that the initial burden would be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. In **Union of India vs. Rina Devi**, the Hon'ble Apex Court considered the question of the party on which the burden of proof will lie in cases where the body of the deceased is found on railway premises. The Court held that the initial burden would be on the claimant, which could be discharged by filing an affidavit of the relevant facts. Once the claimant did so, the burden would then shift to the Railways. Significantly, it also held that the mere absence of a ticket would not negate the claim that the deceased was a bona fide passenger.

10. In the case on hand, it is clear from the record that the A.W.2 has filed a sworn affidavit clearly stating that she accompanied the deceased to the railway station and personally witnessed the deceased purchasing a valid railway ticket and boarding the train. This testimony

establishes that the deceased was a bona fide passenger. In such a case, the burden shifts to the respondent to prove that the deceased was not a bona fide passenger. However, in the present case, the respondent has failed to adduce any cogent or convincing evidence to rebut the testimony of A.W.2 or to establish that the deceased was travelling without a valid ticket. Therefore, the mere non-recovery of the ticket from the body of the deceased cannot be a ground to deny compensation to the claimants.

11. The other ground taken by the Tribunal while dismissing the claim of the appellants is that it arrived at the conclusion that the deceased was not a bona fide passenger primarily on the basis of assumptions drawn from the post-mortem report regarding the probable time of death. Merely relying upon the estimated time of death mentioned in the post-mortem report, without any direct or corroborative evidence relating to the alleged journey, cannot by itself constitute sufficient material to hold that the deceased had not travelled by the said train. The opinion in a post-mortem report regarding time of death is only approximate in nature and cannot be treated as conclusive proof to negate the possibility of the deceased being a bona fide passenger.

12. Accordingly, the impugned order passed by the Tribunal is hereby set-aside and the appeal stands allowed by allowing the claim of compensation. The appellants are entitled for compensation to the tune of Rs.4,00,000/- along with interest at the rate of 7% from the date of filing of the claim application till its realization, in equal shares. It is made clear that after applying the rate of interest, if the final figure is less than Rs.8,00,000/-, then the appellants shall be entitled to Rs.8,00,000/- and if

the amount of original compensation with rate of interest were to exceed the sum of Rs.8,00,000/-, the compensation would be in terms of figure in excess of Rs.8,00,000/-. The amount thus computed is directed to be paid by the respondent Railways within a period of eight weeks from the date of receipt of a copy of this order.

13. In the result, this appeal is allowed. There shall be no order as to costs.

Consequently, miscellaneous applications pending, if any, shall stand closed.

JUSTICE V. SUJATHA

Date:12.02.2026.

Gss