

APHC010369022019



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

[3333]

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

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 496/2019

Between:

1.B MUTYALU, S/O LATE B.TAATHA AGED ABOUT 60 YEARS, OCC-
AGRICULTURE COOLIE R/O D NO.20-B6-78/2, KANKANALAVARI
STREET KOTHAPET,WARD NO.15, ELURU WEST GODAVARI
DISTRICT

2.B.BANGARAMMA, W/O B.MUTYALU AGED ABOUT 55 YEARS, OCC-
AGRICULTURE COOLIE R/O D NO.20-B6-78/2, KANKANALAVARI
STREET KOTHAPET,WARD NO.15, ELURU WEST GODAVARI
DISTRICT

...APPELLANT(S)

AND

1.UNION OF INDIA, rep. By its The General Manager, South Central
Railway, Secunderabad

...RESPONDENT

Counsel for the Appellant(S):

1.GEETHA MADHURI N S

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:

THE HONOURABLE SMT JUSTICE V.SUJATHA
CIVIL MISCELLANEOUS APPEAL NO: 496/2019

J U D G M E N T:

1. The present Civil Miscellaneous Appeal (for short CMA) has been preferred by the Appellants/Applicants being aggrieved by the Judgment in Case No.OA(II)(U) No.68 of 2011 dated 06.08.2019 passed by the Railway Claims Tribunal, Amaravathi Bench at Guntur, wherein the Tribunal dismissed the claim of the Applicants.

For the sake of convenience, the parties hereinafter are referred to as they were arrayed before the Tribunal i.e., Appellants as Applicants and Respondent as Respondent

2. Applicants being parents of B.Srinu (hereinafter referred as deceased) filed a claim petition under Section 16 of the Railway Claims Tribunal Act, 1987 against the Respondent – Railway Administration, seeking compensation of Rs.8,00,000/- with interest and costs for the death of said B.Srinu, in an untoward incident that occurred on 19.09.2008.

3. The facts of the claim application of the applicants before the Tribunal are that - One B.Srinu (hereinafter referred as "the deceased") was a resident of Eluru. He was unmarried and he was a motor mechanic. To meet his Paternal Aunt who resides in Rajahmundry, he went to Eluru Railway Station accompanied by his friend Mr.Uma Maheswara Rao in the afternoon hours of 19.09.2008, purchased a super fast train journey ticket for his journey from Eluru to Rajahmundry, boarded Train No.2806 Secunderabad - Visakhapatnam Janmabhoomi Express. Due to heavy rush of passengers, sudden jerks and jolts of the train, the deceased accidentally slipped and fell down from the said running train at KM No.573/38-40 on the first line in between Kovvuru and Godavari Railway stations, sustained severe multiple injuries and died on the spot on the same day evening hours of 19.09.2008.

4. The respondent Railway administration contested the claim of the applicants by filing the written statement and denied all the allegations/averments made in the claim application and submitted that the deceased was not a motor mechanic and he was a Samosa vendor and in the death certificate produced by the applicants, the date of death is mentioned as 20.09.2008, though the date of incident was on 19.09.2008. None of the railway officials have the information about the alleged fall/death in that section or by that train. As such, the claim does not fall within the ambit of Section 123(c) read with Section 124 A of the Railways Act, 1989.

5. Basing on the above pleadings, the Tribunal framed the following issues for Trial/enquiry-

- 1) Whether the Applicant (s) is/are dependant(s) of the deceased?
- 2) Whether the deceased was a bonafide passenger of the train in question and died as a result of untoward incident?
- 3) Whether the Applicants are entitled to the compensation as claimed and to what relief?

6. During the course of enquiry/trial, B.Bangaramma, applicant No.2, examined as AW.1 and T.Uma Maheswara Rao, alleged friend of the deceased examined as AW.2 and got marked attested copies of - FIR as Ex.A.1, Inquest Report as Ex.A.2, Post Mortem Examination Report as Ex.A.3, Original Death certificate of the deceased as Ex.A.4 and copy of the Ration Card as Ex.A.5.

On behalf of respondent, Mail/Express Guard examined as R.W.1 and Deputy Station Manager/Dwarapudi examined as R.W.2 and got marked the Statutory Investigation report of DRM, Vijayawada containing several documents in evidence as Ex.R.1.

7. Upon hearing both sides and upon perusing the material on record, the Tribunal held on issue No.2 that the applicants failed to prove that the

deceased sustained injuries due to accidental falling from the train, and held on issues No.1 and 3 that as issue No.2 already decided against the applicants, these issues need not be discussed and claim application of the applicants is liable to be dismissed.

8. Being aggrieved by the said Judgment of the Tribunal, the applicants have preferred the present appeal on the grounds that – the Tribunal erroneously appreciated the applicability of the provisions of Section 124-A of the Railway Act to the present case and in holding that the deceased was not a bonafide passenger as he did not possess any Ticket at the time of accident and the death of the deceased does not fall under the definition of untoward incident and failed to appreciate the evidence on record and discarded the prima facie documents filed by the applicants. Hence, prayed to allow the appeal and award compensation by setting aside the Judgment dated 06.08.2019 in O.A II (U) No.68 of 2011 passed by the Railway Claims Tribunal, Amaravathi Bench at Guntur.

9. Heard the learned Counsel for both parties and perused the material on record.

10. A perusal of the Order passed by the Tribunal, it can be observed that though A.W.2 was examined to prove that the deceased purchased a valid ticket from Eluru to Rajamahendravaram and boarded train No.2806, in general compartment and who has categorically deposed that he used to sell Somasas in train and “he saw the deceased purchasing II Class Super Fast train journey ticket from Eluru to Rajamahendravaram. A.W.2 also that he reported to duty to the Canteen owner and boarded holding Somasas carrier and left for selling Somasas, but however, the Tribunal gave a finding that that as per the affidavit of A.W.2 he came to know about death of deceased on the next day i.e., on 20.09.2008 and then he went to the place of occurrence and saw the dead body of the deceased and also that his name was not referred in the panchayanama as a witness and as such, his evidence cannot be believed.

11. Learned Counsel for the Applicants relied on a Judgment in ***Union of India Vs. Rina Devi*** [AIR 2018 SC 2362] wherein the gist of the Judgment is that -

“Mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will 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”.

The above case facts are aptly applicable to the present case facts. As the applicants discharged their burden by filing affidavits and examining A.W.2 to prove that deceased purchased the ticket for his train journey, it can be held that the deceased was a bonafide passenger.

12. On a perusal of Ex.A.2 – inquest report in column No.4 it is mentioned as hereunder:- “in the afternoon of 19.09.2008 at about 2.30 hours the deceased was found by one Uma Maheswara Rao who is none other than A.W.2” and other ground on which the application has been dismissed is that as per column No.7 of the inquest report are that – “Oil and Grease stains were found on the body” and in the postmortem report, as such, there is a possibility that the deceased could have been hit by coming into the grip of some moving train and as such, the Tribunal held that the deceased is not a bona fide passenger of the said train and accordingly dismissed the application.

13. As per column No.20 of the inquest report it is mentioned as under – “as there are dragging marks in the down line as the corpus was dragged about 30 slippers distance and in column No.22 it reads as under – “it appears that the deceased died in the accident is accidental slip from train and fell down accidentally and died”. In view of the above observations made in the inquest report, it cannot be held that the deceased died not in an untoward incident. In such a case, relying upon Ex.R.1 – the D.R.M report, wherein it was concluded

that the incident occurred due to careless, negligent fall of the deceased. In view of the same, the appeal is allowed considering the deceased as a bonafide passenger.

14. Accordingly, the impugned Judgment dated 06.08.2019 in case No.OA II (U).68 of 2015 passed by the Railway Claims Tribunal, Amaravathi Bench at Guntur 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.8,00,000/-, in equal shares. The amount is directed to be paid by the respondent Railways within a period of eight (08) weeks from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the same.

15. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs.

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

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Dated 19.02.2026.

SMT JUSTICE V.SUJATHA

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DATED 19.02.2026

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