
(2004) 07 AP CK 0027
In the Andhra Pradesh High Court
Case No : A.A.O. No. 179 of 1999

Union of India (UOI)

APPELLANT

Vs

K. Parvathamma and Others

RESPONDENT

Date of Decision : 21-07-2004

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 13
Railways Act, 1989 — Section 124A

Citation : (2006) ACJ 892 : AIR 2005 AP 106 : (2005) 2 ALD 35

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : T. Ramakrishna Rao, for the Appellant; K.S.N. Murthy, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—This appeal is filed u/s 23 of the Railway Claims Tribunal Act, 1987 against the order, dated 28-9-1998 passed by the Railway Claims Tribunal Bench, Secunderabad, in O.A.A. No. 129 of 1997. The respondents presented the claim before the Tribunal, seeking compensation on account of the death of late K. Venugopal in an untoward incident said to have taken place on the midnight of 17/19-7-1997.

2. The 1st respondent is the wife and the respondents 2 to 4 are the children of the deceased-Venugopal. They presented the claim alleging that the deceased, a resident of Nandyal, went to Narsaraopet to recover certain amount lent by him to P.W. 2, and on the intervening night of 18/19-7-1997, he boarded a Train bearing No. 510 Guntur Dharmavaram passenger at Narsaraopet. According to them, he fell accidentally between Nandyal and Gaulapally railway stations and died instantly.

3. The dead body of the deceased is said to have been first seen by the keyman of the railways and on the information furnished by him, F.I.R. was issued and inquest was conducted. The respondents claimed that they are entitled to be paid

compensation, as provided for under the Railways Act, 1989 and the Rules made thereunder.

4. The appellant filed written statement denying the very occurrence of the untoward incident, resulting, in the death of the deceased. It was also pleaded that there was nothing to disclose that the deceased fell down from the train, or that he was a bona fide passenger.

5. On behalf of the respondents, P.Ws. 1 and 2 were examined. The ticket, which is said to have recovered from the deceased. F.I.R., and the inquest, were marked as documents. The Tribunal framed necessary issues. It held that the deceased was a bona fide passenger, he died on account of an accidental fall and that the respondents are entitled to be paid compensation.

6. Sri. T. Ramakrishna Rao, learned counsel for the appellant submits that except the self-serving statement of P.W. 1, there is nothing on record to disclose that the deceased had travelled in the passenger train or that he has fallen from it. He also contends that there is nothing to link the death of the deceased to any accident or accident fall. He submits that the respondents failed to discharge their burden to establish their claim.

7. Sri K.S.N. Murthy, learned counsel for the respondents on the other hand submits that in an incident of accidental fall, that too, in the odd hours, during the night, it is impossible to expect any one to be an eye-witness. He contends that Ex. C1 recorded from the shirt pocket of the deceased clearly discloses that he was a bona fide passenger and the contents of F.I.R. and inquest report corroborate these facts.

8. The respondents submitted their claim before the Tribunal pleading that the deceased was travelling in Guntur--Dahrmavam passenger train on the intervening night of 18/19-7-1997 and that he has fallen from the train between Nandyal and Gajulapally railway stations, resulting in his death. It is true that no eye-witness was examined to establish that the deceased was travelling in the said train or that he has died on account of an accidental fall. In fact, it is rather difficult to expect eye-witnesses to be present in such instances.

9. It is not in dispute that the body of the deceased was found on the railway track between Nandyal and Gajulapalli railway stations and the first man to notice it was an employee of the appellant. The subsequent steps such as filing of F.I.R. and causing inquest on the dead body of the deceased were undertaken by the railway administration itself. None of the acts are attributed to the respondents. A perusal of the inquest and F.I.R. would disclose that the body was found in a thrown-away condition, with some injuries upon it and that a ticket was recovered from the, shirt pocket of the deceased.

10. The ticket, which was marked as Ex. C1 indicated that it is issued at Narsaraopet railway station and valid upto Nandyal. The appellant specifically pleaded that Ex. C1 was issued in the late hours of 19-7-1997; whereas the

deceased died during the night intervening 18/19-7-1997. To buttress this contention, the appellant examined the Booking Clerk of Nandyal railway station. The D.T.C. book was also produced. However, it was elicited through the Booking Clerk, examined as Court Witness No. 1, that the register was not maintained in accordance with the relevant procedure and that the ticket Ex.C1 does not contain the date. CW 1 could not decisively state that Ex. C1 was issued at a particular point of time. Therefore, the existence of the ticket Ex. C1 together with the contents of F.I.R. and inquest report are sufficient to establish that the deceased was a bona fide passenger and that he died in an untoward incident.

11. Section 124-A of the Railways Act, 1989 provides for payment of compensation to the injured passengers or dependents of a deceased passenger, irrespective of the fact whether there existed any negligence or default on the part of the railways. The only exception is that the incident should not fall in any of the categories enlisted in the proviso. The appellant does not even contend that the case on hand falls into any of the exceptions listed in the proviso.

12. The learned counsel for the appellant has relied upon a judgment rendered by this Court in C.M.A. No. 1334 of 1998 in support of this contention unless there is an eye-witness to the incident, it is impermissible for the Tribunal to award any compensation. The said judgment does not enunciate any such principle. On facts of that case, it was held that P.Ws. 4 and 5, who were the fellow passengers and resident of the native place of the alleged victim of the accident, have not even chosen to report about the incident. In that case, the dead body was found one day after the incident and till the body was recovered, there was no complaint from anyone. The facts of the present case are altogether different.

13. For the foregoing reasons, the appeal is dismissed. There shall be no order as to costs.