

**RAILWAY CLAIMS TRIBUNAL, AMARAVATHI BENCH
AT GUNTUR**

CORAM

**HON'BLE JUSTICE ANANT KUMAR,
VICE CHAIRMAN (JUDICIAL), RCT, SECUNDERABAD**

**HON'BLE N.MADHUSUDAN RAO,
MEMBER (TECHNICAL), RCT, SECUNDERABAD**

(ON CIRCUIT BENCH THROUGH VIRTUAL HEARING)

OA II (U) No.455 OF 2015

Date of Filing : 29.12.2015
Date of Decision : 02.02.2024

1. J.Aruna Kumari,
W/o [late] Prasad,
Age: 25 years, Occ: Housewife
2. J.Sri Devi,
D/o [late] Prasad,
Age: 8 years, Occ: Student
3. J.Balaji,
S/o [late] Prasad,
Age: 6 years, Occ: Student

**(Applicant No.2 & 3 being Minors, represented
by 1st Applicant as mother and natural Guardian)**

All Applicants R/o Kothur Village,
Near Govt School, Kothapalli,
Kavali Mandal, Nellore District 524201,
State of Andhra Pradesh.

Versus

Union of India rep.by
The General Manager,
South Central Railways,
Secunderabad.

...Applicants

...Respondents

Present:-

Counsel for the Applicant : Shri. S.A.Fayaz
Counsel for Respondent : Shri SK.M.Ahamed

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J U D G M E N T

- 1) The applicants J.Aruna Kumari and others filed this application under Sec.16 of Railway Claims Tribunal Act 1987 Sec.123 (2), 124-A and 125 of the Railway Act 1989, for claiming compensation of Rs.8,00,000/- with interest for the death of Jaladi Prasad S/o Malakondiah (hereinafter referred to as deceased) in an alleged untoward incident that occurred on 24.05.2015.
- 2) The case of the Applicants is that, on 24.05.2015 evening at 18:30hrs the deceased along with his cousin brother Jaladi Seenu went to Ongole Railway Station. Deceased purchased one journey ticket from Ongole to Kavali for himself and boarded general compartment of Tr.No.57242 Vijayawada/Bitragunta Passenger. While the said train was negotiating between Ulavapadu-Tettu Railway Stations, deceased accidentally slipped and fell down from running train on the night of 24.05.2015 due to heavy crowd at about 20:00hrs, sustained serious injuries and died on the spot.
- 3) The Respondent Railway filed Written Statement denying various averments made in the application and has put the applicants to strict proof of the same. Respondent denied that deceased died while travelling from Ongole to Kavali by Vijayawada-Bitragunta passenger train on 24.05.2015. Respondent further submitted that as per DRM enquiry, at the time of inquest no Railway ticket was found in possession of the deceased. Further it is submitted that at the time of DRM enquiry, Guard of Tr.No.57242 stated that he did not notice any untoward incident or ACP on the day of incident. Respondent further submits that the alleged incident if any was



caused by the conduct and the criminal acts of the deceased and such act disentitle the applicants from claiming any compensation for such self inflicted injuries. Respondent also disputed the veracity of all the documents filed by the applicants. Further, Respondent prayed this Hon'ble Tribunal to dismiss the application with costs in the interest of justice.

4) On the strength of the above pleadings, the following issues were framed:-

- 1) Whether the deceased was a bonafide passenger of the Train in Question and died as a result of an untoward incident?
- 2) Whether the Applicant(s) is/are Dependents of the deceased?
- 3) Whether the applicant(s) are entitled to compensation as claimed?
- 4) To what relief?

5) Applicant No.1 filed affidavit as AW.1 and documents filed by her are marked as Ex.A1 to A8. On behalf of Respondent, none were examined. Divisional Railway Manager Report was filed by Respondent and got it marked as Ex.R1.

6) Heard the arguments of learned Counsel's for the Applicant and Respondent. On considering the material documents available on record and the contentions of the learned counsel for both the parties the findings on the issues are recorded as follows:-

FINDINGS

ISSUE NO. 1 :

7) According to applicants, on 24.05.2015 evening at 18:30hrs the deceased along with his cousin brother Jaladi Seenu went to Ongole Railway

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Station. Deceased purchased one journey ticket from Ongole to Kavali for himself and boarded general compartment of Tr.No.57242 Vijayawada/Bitragunta Passenger. While the said train was negotiating between Ulavapadu-Tettu Railway Stations, deceased accidentally slipped and fell down from running train due to heavy crowd at about 20:00hrs, sustained serious injuries and died on the spot.

8) To support their claim application AW1 filed Ex.A1 - Attested copy of FIR bearing No.56/2015, Ex.A2 - Attested Copy of Inquest Report along with translation, Ex.A3 - Attested Copy of PME Report, Ex.A4 - Original Family Member Certificate, Ex.A5 - Copy of Ration Card, Ex.A6 - Copy of Aadhar Card of Applicant No.1, Ex.A7 - Copy of Aadhar Card of Applicant No.2 and Ex.A8 - Copy of Aadhar Card of Applicant No.3.

9) Ex.A1-Attested copy of FIR bearing No.56/2015 dt.25.05.2015 was registered on basis of complaint given by T.N.V.Reddy Station Master/Ongole Railway Station that, on 25.05.2015 at 10:20hrs Shri.P.Rajashekar Keyman found one male dead body between UPD-TTU Railway Stations at KM.No.243/11-13 on upline. Ex.A2 Inquest report states that Inquest was attended by Wife of the deceased and other Panchayatdars. Para(7) of the report records injured sustained viz., a) injuries all over the face, b) Left hand broke near elbow and shoulder level, c) Cut injury on Right hand at shoulder level and d) both legs cut upto waist level and got separated. Further it records that deceased wore black and yellow stripes full hand shirt and black pant. One Aadhar Card and two

small books were the belongings found with the deceased. Para(XV) of the inquest report is the unanimous opinion of the Panchayatdars which states that "...on 17.05.2015 the deceased started from his native place Kothapalli Village by informing his wife that he was going to Ongole for Masonary works. Again on 23.05.2015 evening the deceased had telephonically informed his wife that on 24.05.2015 he will be coming back to the home. Since the deceased had not reached home the wife of the deceased had telephoned her husband for which she did not get any response. Using the small books and Aadhar Card found with the deceased, on 25.05.2015 evening at about 17:30 hrs railway police contacted the relatives of the deceased. Immediately wife of the deceased along with her relatives have reached the Ongole Govt RIMS Hospital. Upon examination police concluded that the deceased might have accidentally slipped and fallen down from the train and died or he might have died by committing suicide, or somebody might have killed the deceased and dumped the body on the track or due to some other reasons the deceased might have died or due to hit by the train at KM No:243/11-13 posts the deceased might have died. The incident might have happened prior to 10.00 AM on 25.05.2015."

10) Ex.A3 – PME Report states that PME was conducted at 13:15hrs on 26.05.2015. The report places approximate time of death is 24-32 hours prior to the commencement of PME and cause of death as due to "Multiple Injuries". Ex.A4 is the Family Member Certificate issued by Government of Andhra Pradesh, certifying family members of Jaladi Prasad. Ex.A5 is the copy of Ration card bearing No.JAP090502900170 issued in the name of



Jaladi Aruna Kumari. Ex.A6 to Ex.A8 are the copies of Aadhar Cards of Applicants.

11) Applicant No.1 filed affidavit as AW1 in which she stated that on 17.05.2015 morning her deceased husband informed that he was going to Ongole for masonry work and would return after one week. Her husband called again on 23.05.2015, to inform her that he would be returning home the next day. On 24.05.2015, as her husband did not return home, she attempted to call him at 21:00 hours but received no response. On 25.05.2015 at 17:30hrs, Ongole Railway Police called her to inform her that her husband had accidentally fallen from the train and died. His dead body was kept at RIMS Hospital and police asked her to come and identify the dead body. Further she along with other relatives went to RIMS Hospital and found and identified the dead body of her husband. Police enquired her and later informed that her husband while travelling in an unknown train accidentally fell down, sustained serious injuries and died. AW1 further stated that it is concluded that her husband while travelling in Tr.No.57242 Vijayawada-Bitragunta Passenger with valid ticket, during the travel he accidentally fell down sustained injuries and died. She also stated that during the fall her husband's ticket might have been lost.

12) During her cross-examination AW1 reiterated the facts mentioned in her affidavit and also stated that on the day before journey her husband informed that he will be returning by train on the next day. She further stated that no ticket was found with the deceased during inquest.

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13) Respondent filed Divisional Manager Report which was marked as Ex.R1. At the time of enquiry, Statement of P.Raja Sekhar, Keyman was recorded, in which he stated that on 25.05.2015 he was on duty from 06:00hrs to 17:00hrs and during his duty he noticed one male dead body on up line at KM.No.243/11-13 between Tettu and Ulavapadu Railway Stations. He informed the same to Dy.SS/TTU at 10:30hrs. Further, the Report records that Dy.SS/TTU issued a message to ASI/RPF/KVZ regarding the said incident.

14) Basing on the investigation and enquiries, the DRM report concluded as follows:

"There is no eye witness to the incident. No person falls down from moving train, unless he sit/stands at the door ways negligently. However, GRP/Ongole authorities clearly mentioned in inquest report point No. XV, while the deceased was travelling in some unknown train accidentally slipped and fallen down from train and died or due to committing suicide he died or somebody killed the deceased and kept the body on the track."

15) We have gone through all the documentary and oral evidence placed on record and have come to the following conclusions as under:

a) In cases where a body has been found on the railway track without a ticket, the Hon'ble Supreme Court in Union of India Vs. Rina Devi (Civil Appeal No.4945 of 2018) had held that,:

"mere presence of a dead body on the railway premises will not be conclusive to hold that the injured or deceased was a bonafide passenger for which claim for compensation could be maintained. However, mere absence of the ticket with such injured or deceased will not negate the claim that he was a bonafide passenger. Initial burden will be on the claimants which can be discharged by filing an affidavit of the relevant facts, the burden will then shift on to



the Railways and the issue can be decided on the facts shown for the attending circumstances. This will have to be dealt with from case to case on the basis of facts found."

- b) As far as the bonafide of the deceased as a passenger is concerned, according to the applicant's claim, deceased accompanied by his cousin brother Jaladi Seenu, went to Ongole Railway Station purchased one journey ticket and boarded Tr.No.57242. During his travel, deceased accidentally fell down from running train, during which the ticket was lost.
- c) As per the law laid down above, Applicant No.1 filed her affidavit as AW1 wherein she mentioned that on 17.05.2015 morning her husband started from home by informing that he is going to Ongole on work for one week and after completion of work he will return back to home. Later on 23.05.2015 her husband telephoned and informed her that he will be coming back on next day. But as the deceased did not come back home on next day i.e. 24.05.2015, at 21:00hrs she called him, but there was no response. Later on 25.05.2015 at about 05:30hrs she got to know about the death of her husband through Ongole Railway Police. However, we observe that this is at a stark variance to the claim application as Applicant No.1 has nowhere mentioned about Mr.Jaladi Seenu accompanying the deceased to Ongole Railway Station, either in her affidavit or in her cross examination. Thus, it completely negates the facts mentioned in her claim application. Moreover, all the information regarding the incident came from Police personnel, and is only a

hearsay to Applicant No.1. AW1 does not have any idea how and when the deceased travelled from Ongole to Kavali. Thus, we feel that affidavit of AW1 is of no help in determining whether the deceased was a bonafide passenger or not.

- d) Further, the Counsel for Respondent, argued that the only person who could speak about the travel and purchase of ticket is Jaladi Seenu and applicants have not made any efforts to file affidavit on his behalf or to produce him. Thus Counsel for Respondent vehemently argued that Under Sec.114(g) of the Indian Evidence Act, the Court may presume that the evidence which could be and is not produced would, if produced, be unfavourable to the person, who withholds it. When better and relevant evidence is withheld, it is only fair to presume that the party withholding the evidence has some motive for not producing it and that if the evidence is offered, his design would be frustrated. It can thus be inferred that, Jaladi Seenu accompanying the deceased was only an afterthought to prove the deceased's travel. This is also supported by the fact that Jaladi Seenu's name was not mentioned in inquest report and other documents except in claim application.
- e) On perusal of the inquest report we note that at the time of inquest, a copy of Aadhar Card and two small books were found with the deceased. The version of applicants that only the ticket was lost among the other things is difficult to accept. Thus we feel that applicants have not produced an iota of evidence to prove that the



deceased was in possession of ticket and completely failed to shift the burden on to the Respondent Railways.

f) Coming to the untoward incident the body was first found by Keyman between Ulavapadu and Tettu Railway Stations at KM.No.243/11-13 post on upline. The applicants have not placed any evidence before us that the deceased travelled by train. They have tried to project the same as the body was found on the rail tracks. However, the injuries suffered by the deceased whereby body has been bisected from the waist indicate that he might have been hit by a train during trespass. Moreover, the residence of the deceased is a few Kilometers away from the spot and the possibility that he was crossing tracks to reach his home after work cannot be ruled out. In absence of any witnesses, whether the deceased died in trespass or actually fell down from a train is not clear and the same is clearly brought in Para(XV) of the inquest report.

g) In the light of the above discussion, and the facts of the case, it is concluded that the Applicant have failed to prove their case that the victim was a bonafide passenger and died in an '*untoward incident*' as defined in Section - 123 (c) (2) of Railways Act, 1989. Thus, this Issue is decided against the Applicants and in favour of the Respondent.



ISSUE NO.2

16) As per the claim Application, the Applicant No.1 is the wife of the deceased, Applicant No.2 & 3 are daughter and son of the deceased. To support their relationship with the deceased, the applicants have filed Original Family Member Certificate (Ex.A4), copy of Ration Card (Ex.A5) and Copies of Aadhar Cards of Applicants (Ex.A6 to Ex.A8). Respondent has not disputed the said documents. In view of this, the applicants being wife, daughter and son of the deceased, are held to be dependents of as defined under Sec.123(b) of the Railways Act.

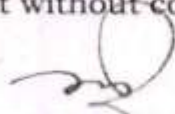
ISSUE NO. 3 & 4

17) In view of the findings on Issue No.1 in negative, applicants are not entitled for any compensation as prayed in the application.

18) In the result, it is, therefore,

Ordered

19) that the claim application of the Applicants is hereby dismissed, on contest, but without cost.


(N.MADHUSUDAN RAO)
Member (Technical)


(JUSTICE ANANT KUMAR)
Vice Chairman (Judicial)

APPENDIX**Witnesses for the Applicants:**

1) AW.1 - J.Aruna Kumari

Exhibits for the Applicants:

- 1) Ext.A.1 - Attested copy of FIR bearing No. 56/2015
- 2) Ext.A.2 - Attested Copy of Inquest Report along with translation
- 3) Ext.A.3 - Attested Copy of PME Report
- 4) Ext.A.4 - Original Family Member Certificate
- 5) Ext.A.5 - Copy of Ration Card
- 6) Ext.A.6 - Copy of Aadhar Card of Applicant No.1
- 7) Ext.A.7 - Copy of Aadhar Card of Applicant No.2
- 8) Ext.A.8 - Copy of Aadhar Card of Applicant No.3

Witnesses for the Respondent:- NIL**Exhibits for the Respondent:**

- 1) Ext.R.1 - Divisional Railway Manager Report.


(N.MADHUSUDAN RAO)
Member (Technical)


(JUSTICE ANANT KUMAR)
Vice Chairman (Judicial)

MVK/-

