

**Erla Susheela and ors. Vs. Union of India (Uoi) Rep. by Its General Manager,
South Central Railway**

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Court : Andhra Pradesh

Decided On : Sep-17-2009

Reported in : 2010(1)ALT428

Judge : L. Narasimha Reddy, J.

Acts : [Railways Act, 1989](#) - Sections 124A

Appeal No. : C.M.A. No. 1549 of 2001

Appellant : Erla Susheela and ors.

Respondent : Union of India (Uoi) Rep. by Its General Manager, South Central
Railway

Advocate for Def. : B.H.R Chowdary, Standing Counsel

Advocate for Pet/Ap. : Eranki Phani Kumar, Adv.

Judgement :

L. Narasimha Reddy, J.

1. Erla Narasinga Rao, the husband of the 1st appellant, father of the 2nd appellant, son of appellants 3 and 4, and brother of appellants 5 and 6, was a

resident of Luxettipet village of Adilabad District. On 24-3-1998, he went to Kolanur. Narasinga Rao, wanted to proceed to Sirpur Khagaznagar. He is said to have purchased the ticket at Kolanur Railway station, for Train No. 321. He died in an accident. The dead body was found on the tracks, and on a memo issued by the Station Master, F.I.R. was registered, to the effect that in the Kolanur station yard, at point No. 20/A, a dead body, which was cut into two pieces, was found on the track, at 8.20 hours. Inquest was prepared on 24-3-1998. It was mentioned that the deceased died in his attempt to board the train.

2. The appellants filed O.A.A. No. 150 of 1998 before the Secunderabad Bench of the Railway Claims Tribunal (for short 'the Tribunal'). They pleaded that the deceased died in an untoward incident, and that they are entitled to be paid compensation, under Section 124A of the Railways Act (for short 'the Act'). The necessary facts were pleaded.

3. The respondent filed a reply. It was admitted that a male person, aged about 25 years was run over, by train No. 321, at 8.20 hours at point No. 20/A, at Kolanur station yard. However, they denied that the death was on account of any fall from train. The Tribunal framed necessary issues. However, it rejected the claim, on the ground that the case does not fall under Section 124A of the Act. Hence this appeal.

4. Sri Eranki Phani Kumar, learned Counsel for the appellants, submits that the evidence on record clearly discloses that the deceased died in a station yard, in his attempt to board the train, and it is a clear-cut case of death, in an untoward incident. He contends that the Tribunal erred in law, and on facts, in rejecting the claim.

5. Sri B.H.R. Choudary, learned Standing Counsel for the respondent, on the other hand, submits that, though the dead body of the deceased was found in a station yard, it was not established that the accident occurred is an untoward incident. He further contends that the death may have occurred on account of the negligence on the part of the deceased, himself.

6. On the basis of the facts pleaded by the appellants, on the one hand, and the respondent, on the other hand, the Tribunal framed the following issues:

(i) 'Whether the Applicants prove that they are the only dependents of the deceased?

(ii) Whether the applicants prove that the deceased was a victim of untoward incident as defined under Section 124A of the Railways Act?

(iii) What amount of compensation, if any, the Applicants are entitled to?

7. There was no eye-witness to the accident. The dead body was found within a short time, after the passenger train No. 321, left the station. The railway employees were the first ones', to notice the dead body. F.I.R. was registered and inquest was prepared. It was clearly mentioned that the deceased died in his attempt to board the train. From his dead body, a passenger ticket was recovered.

8. While discussing issue No. 2, the Tribunal took the view that no evidence was adduced by the appellants, to prove that the deceased has fallen accidentally from the running train. Another observation was that, except that the body was cut into two pieces, no other injuries were noticed. The Tribunal held that, it cannot be treated as an incident of accidental fall. The approach of the Tribunal is totally erroneous, if not perverse.

9. Section 124A of the Act reads as under:

Compensation on account of untoward incidents:

When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward

incident.

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to-

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;

(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

10. The provision places obligation on the railway administration to pay compensation, even where the administration is not guilty of any negligence. What all is needed, in matters of this nature, is that the death must have occurred in an untoward incident, and the deceased must be a bona fide passenger. That the deceased was a bona fide passenger, is evident from the fact that a valid ticket was recovered from his body. It was not even alleged that the death occurred on account of any attempt to commit suicide. Even where such facts are pleaded, the burden rests upon the railway administration to prove the same. No such facts are pleaded. The inevitable conclusion is that the deceased was bona fide passenger, and died in an untoward incident.

11. The C.M.A. is accordingly allowed, the order under appeal is set aside, and the respondent shall pay compensation of Rs. 4 lakhs to the appellants. Consequently, O.A.A. 150 of 1998 is allowed.

12. The Railways cannot be burdened with the liability to pay interest all through. Hence, it is directed that the amount of Rs. 4 lakhs shall carry interest at 6% per annum from January, 2004.

13. Appellants 5 and 6 cannot be treated as dependents upon the deceased, particularly when their parents are alive. Out of the compensation of Rs. 4 lakhs,

the appellants 1 and 2, shall be entitled to Rs. 1,25,000/- (one lakh twenty five thousand), each, and appellants 3 and 4, for a sum of Rs. 75,000/- (seventy five thousand), each.

14. There shall be no order as to costs.

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