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Agam Shanthamma Vs. Union of India (Uoi), Represented by General Manager, South Central Railway

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Court : Andhra Pradesh

Decided On : Aug-22-2002

Reported in : I(2003)ACC423; 2004ACJ713; 2002(6)ALT814

Judge : G. Bikshapathy, J.

Acts : Railways Act, 1989 - Sections 124A; Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 - Rule 3; ; Railway Accidents and Untoward Incidents (Compensation) (Amendment) Rules, 1997

Appeal No. : A.A.O. No. 977 of 1997

Appellant : Agam Shanthamma

Respondent : Union of India (Uoi), Represented by General Manager, South Central Railway

Advocate for Def. : D. Srinivas Rao, S.C.

Advocate for Pet/Ap. : Sridhar Reddy Pottigari, Adv.

Disposition : Appeal allowed

Judgement :

Bikshapathy, J.

1. This appeal has been filed by the claimant challenging the order dated 25.10.1996 passed in O.A.A. No. 18 of 1996 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

2. A claim was laid by the legal heir of the deceased passenger alleged to have died by accidental fall from train No. 348 while travelling from Zahirabad to Vikarabad. The matter was resisted by the Railways. Basing on the respective pleadings, the Railway Claims Tribunal framed the following issues:

(i) Whether the deceased was a bona fide passenger?

(ii) Whether the deceased fell down from the train and died as a result of the injuries?

(iii) Whether the applicant is a dependant of the deceased? and

(iv) To what relief?

3. The Railway Claims Tribunal after considering the evidence and the material available on record came to the conclusion that the claimant is the legal heir of the deceased passenger. However, the Railway Claims Tribunal held that deceased was not a bona fide passenger on the ground that the railway ticket was not found in his possession. Accordingly, Railway Claims Tribunal rejected the claim, against which the present appeal has been filed.

4. Learned counsel for the appellant submits that the burden of proof that the deceased was not a bona fide passenger lies on the Railways and that burden has not been discharged by the Railways and, therefore, Railway Claims Tribunal erred in holding that the deceased was not a bona fide passenger. In support of this contention, learned counsel relied on the Division Bench decision of this court in Union of India v. B. Koddekar, : AIR 2003 AP23 . On the other hand, the learned standing counsel for the Railways submits that no case is made out by the appellant to interfere with the impugned order passed by Railway Claims Tribunal and, therefore, the appeal is liable to be dismissed.

5. Heard the learned counsel for the parties.

6. The only question that arises for consideration is whether the finding of the Tribunal that the deceased was not a bona fide passenger is legal and valid.

7. This issue is already set at naught by a Division Bench of this court in Union of India v. B. Koddekar, : AIR 2003 AP23 , wherein it was held by the Division Bench of this court that the burden of proof lies on the Railways to prove that the deceased was a ticketless passenger. In absence of discharging that liability by the Railways, it has to be necessarily held that the deceased was a bona fide passenger.

8. Under these circumstances, the appeal is liable to be allowed in view of the above said decision of the Division Bench. Accordingly, the appeal is allowed for a sum of Rs. 2,00,000 with interest at 12 per cent per annum. The respondent is directed to deposit the said sum before the Tribunal within a period of two months from the date of receipt of a copy of this order. No order as to costs.

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