

K. Vidya Kumari and Others Vs Union of India (UOI), South Central Railway

Court: Andhra Pradesh High Court

Date of Decision: Sept. 20, 2002

Acts Referred: Railways Act, 1989 " Section 123, 124A
Terrorist and Disruptive Activities (Prevention) Act, 1987 " Section 3

Citation: (2004) ACJ 1420 : (2004) 1 ALD 26 : (2003) 1 ALT 65 : (2003) 1 AnWR 118

Hon'ble Judges: G. Bikshapathy, J

Bench: Single Bench

Judgement

G. Bikshapathy, J.

This civil miscellaneous appeal is preferred by the claimants against the order passed by the Railway Claims Tribunal, Secunderabad in O.A.A. No. 135 of 1996 dated 9.12.1997 dismissing the claim for compensation.

2. One Bala Krishna Mohan died by accidentally falling down from Nagarjuna Express, while he was trying to board the train on 18.1.1996.

Therefore, dependants of the deceased laid a claim for compensation. The Railway Claims Tribunal (for short "the Tribunal") held that appellant-

applicants are dependants of the deceased. However, on the question as to whether the deceased is a bona fide passenger or not, the Tribunal

held that the deceased was not a bona fide passenger. The Tribunal, however, held that the accidental fall of the deceased is an untoward incident

covered by Section 123(c)(2) read with Section 124-A of the Railways Act. Accordingly, the Tribunal dismissed the claim of the appellant-

applicants by its order dated 9.12.1997, against which the present civil miscellaneous appeal has been preferred.

3. Learned Counsel for the appellants submits that the Tribunal has admitted that the deceased was having a valid railway ticket and that he fell

down while trying to board the train No. 7006 from Secunderabad to Guntur. Therefore, the finding of the Tribunal that the deceased was not a

bona fide passenger is absolutely misconceived and the Tribunal failed to consider the relevant provisions of the Railways Act.

4. The Tribunal held that the deceased was having a railway ticket to board the train from Guntur to Secunderabad, but he was trying to board the

incoming train from Secunderabad to Guntur at Guntur platform, as he knew that the same train would come back as Guntur-Secunderabad

Express after unloading the passengers at Guntur and, therefore, the deceased was not a bona fide passenger. On that ground, the Railway Claims

Tribunal rejected the claim of the claimants.

5. For proper appreciation of the case, it is necessary to refer relevant provisions of the Railways Act. Under Sub-clause (c) of Section 123 of the

Railways Act, the term "untoward incident" is defined. It reads as under:

(c) "untoward incident" means-

(1) (i) the commission of a terrorist act within the meaning of Sub-section (1) of Section 3 of the Terrorist and Disruptive Activities (Prevention)

Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson,

by any person in or on any train carrying passengers, or in a waiting hall, cloakroom or reservation or booking office or on any platform or in any

other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.

6. In fact the Tribunal itself found that it is an accidental fall and comes within the meaning of "untoward incident". Therefore, the question that falls

for consideration in this case, is, as to whether the deceased was a passenger covered by the provisions of Section 124-A of Railways Act or not.

Section 124-A of the Railways Act reads thus:

124-A, Compensation on account of untoward incident--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;

Explanation.--For the purposes of this section, "passenger" includes--

(i) a railway servant on duty; and

(ii) a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a

victim of an untoward incident.

7. As can be seen from the aforesaid provisions, a passenger who has purchased a valid ticket for travelling by a train carrying passengers, and

even a person who possesses a valid platform ticket is covered by this definition, and when becomes a victim of an untoward incident, he is entitled

for compensation. There is no specific mention in this section that a passenger should possess a ticket only in respect of the train from which he had

an accidental fall. Since a person who possesses a platform ticket is also entitled for compensation, possession of a valid ticket for a particular

train, becomes immaterial. A passenger possesses a valid ticket for a train carrying passengers is sufficient to claim compensation, provided he

becomes victim of an untoward incident. Admittedly, in the instant case, the Tribunal has held that it is an accidental fall, which falls within the

meaning of expression "untoward incident". But the Tribunal rejected the claim of claimants only on the ground that the deceased was not a bona

fide passenger. It is also not understood as to how the deceased could not be a bona fide passenger. Admittedly, the deceased was having a valid

railway ticket, might be valid in the train from Guntur to Secunderabad, and that the said train had not reached the platform to take the passengers

from Guntur to Secunderabad. But that would not make any difference in the eyes of law, inasmuch as, the Explanation contained in Section 124-

A of the Railways Act, clearly contemplates that a person who purchased a valid ticket for travelling by a train carrying passengers on any day or

possesses a valid platform ticket, and if he becomes a victim of an untoward incident, he is entitled for compensation. The section does not further

clarify that the passenger must possess the valid ticket of the same train from which he had an accidental fall. The fact that even a platform ticket

holder is also entitled for compensation, itself, is a clear indication that any person who is having a valid railway ticket for travelling by a train

carrying passengers on any date, and becomes a victim of an untoward incident, he is entitled for compensation. Under the circumstances, the

finding recorded by the Tribunal that deceased was not a bona fide passenger is completely misconceived and not sustainable in law. Accordingly,

said finding of the Tribunal is set aside and I hold that the claimants are entitled for compensation of Rs. 2,00,000 (Rupees two lakh) with interest

at the rate of 12 per cent per annum from the date of petition till the date of payment.

8. In the result, this civil miscellaneous appeal is allowed and the appellant-applicants are entitled for a compensation of Rs. 200,000 (Rupees two

lakh) with interest at the rate of 12 per cent per annum from the date of petition till the date of payment. The railway administration shall deposit the

compensation amount before the Railway Tribunal within a period of two months from the date of receipt of a copy of this order. The amount of

compensation shall be apportioned equally among the claimants, and the share falling to the majors shall be released to them without furnishing any

security, and insofar as the share falling to the minor, the same shall be kept in fixed deposit in any nationalized bank till she attains majority. No

order as to costs.