

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 1ST DAY OF JULY 2016

BEFORE

THE HON'BLE MR. JUSTICE G. NARENDAR

Smt. Parvathawwa v/s. Govt. of India

MFA No.21416/2009 (RCT)

JUDGMENT

Heard the learned counsel for the appellants and respondent.

2. At the outset this Court is aghast at the manner in which the material evidences have been ignored and adopting a quaint reasoning, the Tribunal has rejected the claim petition.

3. The undisputed fact which even the Tribunal has acknowledged is the fact that the incident was reported by the driver of the train itself and it has occurred on the platform, when the deceased was alighting from the train and slipped and fell into the gap, i.e., between train and the platform and went under the wheels and suffered instantaneous death. None of these facts are disputed nor is there any evidence, which controverts the same. The Tribunal has reasoned that, though police found one white plastic bag and one green plastic water bottle, in that bag and plastic plate, they did not find a ticket in the apparels.

4. It is not the contention of the respondent that, even if the body of the deceased gets mutilated, after it went into under the wheels of the train, the ticket will not get destroyed and will stay secure and will be available for recovery. If at all the ticket was available on the body, the railway authorities and police authorities who seized the body would have seized the same. It is common knowledge that the wheels of the train, that crush the skull and bones can destroy a ticket within no time. The possibility of ticket getting thrown away or getting under the wheels or getting stuck to the under carriage of the train is not an impossibility. None of these factors are even thought about by the Tribunal. Another queer reasoning for disregarding and discarding the evidence of A.W.2, who claimed to be an eye-witness is that the information is given by the driver and not by A.W.2. There cannot be a more convoluted reasoning for discarding the evidence of an eye-witness. This is not even the case of the respondent. Hence, this Court is of the considered opinion that the appreciation of the material on record is perverse

and the reasoning are unsustainable and the Tribunal has made out a case for the respondent, which is not canvassed by the respondent. Hence, the appeal is allowed. Consequently, application for compensation in O.A.No.1111/2007 is allowed. It is declared that the appellants are entitled for claim under Rule 3 of the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 and they are entitled to a sum of Rs.4,00,000/- as provided at Part-1 of the schedule.

5. Respondent shall deposit the said sums within six weeks from the date of receipt of a copy of this order. The said compensation amount shall carry interest at the rate of 4% p.a. from the date of petition till the date of deposit. The rate of interest is reduced keeping in view the long pendency.