

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO No.132/2011**

% **18th August, 2011**

SANJAY CHAUHAN Appellant
Through: Mr. Mohit Batra with Mr. Saunak Das,
Advocates

VERSUS

UNION OF INDIA Respondent
Through: Mr. Rajan Sabharwal with
Ms. Seema Bhadauriya, Advocates

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? **Yes**
3. Whether the judgment should be reported in the Digest? **Yes**

VALMIKI J. MEHTA, J (ORAL)

1. The challenge by means of this First Appeal under Section 23 of the Railway Claims Tribunal Act, 1987 is to the impugned judgment dated 24.11.2010 of the Railway Claims Tribunal whereby the Claim Petition of the appellant was dismissed. The appellant filed a Claim Petition on the ground that on 12.9.2008 he was travelling from Mathura to Delhi by Mumbai-Jammu Tawi Express and because of sudden jerk of the train he fell down near New

Faridabad Station resulting in amputation of both his legs. A Claim Petition of Rs.5,00,000/- was therefore filed.

2. The Railway Claims Tribunal dismissed the Claim Petition by holding that the date of accident was 12th September, 2008, however, the statement which was got recorded from the appellant/applicant was after about two weeks on 24.9.2008 where it was said that he had fallen from a train. The Railway Claims Tribunal disbelieved the report of the Superintendent of Railway Police, Faridabad, Ex.AW1/3, since the same, more or less, reproduced the statement of the appellant. Admittedly, even as per the counsel for the appellant, the Railway Police did not find anything worthwhile in the stand of the appellant and therefore no inquiry was done by the Railway Police.

3. Learned counsel for the appellant argued that in the discharge summary of Safdarjang Hospital, New Delhi dated 10.10.2008, it is stated that the amputation of legs is on account of falling from the train and therefore it should be held that the appellant has proved that the appellant suffered injury on account of falling from the train.

4. In my opinion, the complaint has rightly been dismissed by the Railway Claims Tribunal. There is absolutely no merit in the appeal. The following points are noted and which persuade this Court to dismiss the appeal:-

- i) The appellant led a case before the Railway Claims Tribunal that as a result of falling from the train both his legs were crushed. It is

nowhere stated in the complaint before the Railway Claims Tribunal as to how simply because of falling from the train legs of a person can get crushed. Even in the affidavit by way of evidence filed, it is stated that the legs were crushed on account of falling down from the train. Legs of a person can only be crushed by falling from a train if there is untoward incident of the legs coming under the same train or some other passing train. Both the complaint and affidavit by way of evidence are totally silent as to how the legs were crushed, inasmuch as, it is not the case that the legs got crushed having come under a train. Counsel for the appellant tried to build up a case during the arguments that the legs got crushed under the same train from which the appellant fell down. Firstly I cannot accede to this argument because no such case is set up. Secondly this stand is totally unbelievable because if a person falls down on account of jerk from a train, it is only in very rare cases that he will come under the same train from which he falls down, because normally, falling from the train has to be few feet away from the train. It is therefore improbable that the legs of the appellant were crushed by "falling from a train".

ii) If a person falls from a train, surely, he will not fall legs first. If a person falls from a train because of a jerk he would be unbalanced and normally would fall either on his head or his side i.e. ordinarily not on his legs. There is no averment either in the complaint or in the affidavit by way of evidence of the appellant suffering any injury in any

other part of his body, and if the appellant would have been fallen from a train, he would have definitely suffered serious injuries to various other portions of the body considering the fact that the case of the claimant is that his legs were crushed under the same train in which he was travelling, a case which is now argued by counsel for the appellant. Thus the fact that no other injuries have been caused and proved makes the case set up unworthy of belief.

iii) The arguments of the counsel for the appellant that the discharge summary should be taken as a clear-cut proof of his having fallen from the train, has no legs to stand upon because the date of accident is 12.9.2001 and the date of discharge is 10.10.2008. On 10.10.2008, the discharge summary which has been prepared on the statement of the appellant, thus contains only self-serving insertion of injuries having been caused from falling from a train on 11.9.2008. Such self-serving statement, much after the date of the incident, cannot be believed, more so when there is no proof on record of any other serious injury to other parts of the person of the appellant.

iv) Normally it is possible that a ticket may get lost in an accident, but considering the peculiar facts of this case, it is doubtful that the appellant was a bonafide passenger having a train ticket.

5. I have now been repeatedly observing in many cases which are coming up before me that after the passing of the Railway Claims Tribunal Act, there is almost a rush of cases for claims under the Railway Claims

Tribunal Act, 1989, inasmuch as compensation running into lacs is statutorily provided under the Act. Many adventuristic litigations are therefore initiated before the Railway Claims Tribunal for claim of compensation, and the present complaint and this appeal is obviously one such litigation. I would have normally initiated proceedings under Section 340 Cr.P.C., however, considering that the appellant is already suffering from a huge disability of having both his legs amputated, I do not find that I should in equity and justice adopt the course under Section 340 Cr.P.C. I must finally note that I have sent copies of certain judgments passed by me to the concerned authorities in the Railways as to the need for appropriate procedure being set out, appropriate circulars being issued and the Railways staff including the Railway Police being made aware of the circumstances which lead to filing of false complaints before the Railway Claims Tribunal.

6. In view of the above, there is not merit in the appeal. The appeal is dismissed, leaving the parties to bear their own costs. Trial Court record be sent back.

AUGUST 18, 2011
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VALMIKI J. MEHTA, J.