

-

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CMA No.1304 of 2008 & XOBJJS

JUDGMENT:

This appeal is filed by the Railways represented by the General Manager, South Central Railway, Secunderabad, against the order dated 18-06-2008 passed in OAA No.520 of 2005 by the Railway Claims Tribunal, Secunderabad Bench, Secunderabad.

2. Respondent-applicant is the injured who filed claim petition under Section 16 of Railway Claims Tribunal Act r/w. Section 124-A of Railways Act for grant of compensation of Rs.2-00 lacs. The case of the applicant in the claim petition was that on 06-04-2005, in the evening at about 16-00 hours, she went to Dabirpura railway station along with her father, brother, aunty and her two daughters and purchased tickets bearing no.1685689 to go to Secunderabad. That while getting into the train due to sudden starting of train with jerks, she accidentally slipped and fell down from train no.US2 in between the platform and the train. That she was immediately shifted to Osmania General Hospital, Hyderabad, for treatment, but her right leg was crushed below the knee level in the train accident. That she was treated as in patient from 06-04-2005 to 20-04-

2005. Therefore, she sought for compensation on account of the injuries sustained by her in the train accident.

3. The appellant-Railways denied the case of the applicant on the ground that there is no cause of action for the applicant, as the claim made by her does not fall within the ambit of Section 123(c) or Section 124-A of the Railways Act and, therefore, sought for dismissal of the claim petition.

4. The Railway Claims Tribunal, allowed the claim of the applicant on the ground that the injured applicant was a bona-fide passenger with valid ticket, that the accident occurred due to the sudden jerks of the train and the accident took place on the railway platform. As against the claim of Rs.2-00 lacs, the Tribunal granted Rs.1,60,000/- with interest at the rate of 9% from the date of receipt of a copy of the order till the date of actual payment. Hence, this appeal by the Railways.

5. Heard the learned standing counsel for the appellant-Railways and also the learned counsel for the applicant-respondent. Perused the impugned order passed by the Tribunal.

6. Admittedly, there is no dispute as to the nature of the accident and the applicant sustaining leg injury in the train accident on the platform while she along with her family members was trying to board the train at Dabirpura railway

station. It has also come in the evidence that she was a bona-fide passenger having purchased valid ticket to go to Secunderabad.

7. Now the only point that arise for consideration is whether the train accident in which the applicant sustained injury is an untoward incident as defined in Section 123(c) of the Railways Act, or a self inflicted injury on account of her carelessness act.

8. The applicant herself was examined as AW-1 and it has come in her evidence that when she was boarding the train due to sudden starting of train with jerks, she accidentally slipped and fell down between the platform and the train and sustained grievous injury to her right leg. Nothing has come in the evidence of RW-1, who was examined on behalf of the appellant-Railways to prove that because of the negligence on the part of the applicant she sustained injury, and it was a self inflicted injury on account of her carelessness. What has been deposed by RW-1 was that some passengers have informed him that the applicant fell down while trying to board the train and got injured in the process by coming in between the train and the platform. It is settled proposition of law that when two views are possible, a view which is in favour of the applicant is to be adopted, more so having regard to the scheme of the

Railways Act. In the circumstances, the evidence placed on record goes to show that the injury sustained by the applicant in the train accident falls within the meaning of untoward incident as defined in Section 123(c) of the Railways Act and under those circumstances, I do not find any merit in the appeal and it is accordingly dismissed. The applicant filed cross objections in the above appeal. There are no valid grounds to enhance the compensation granted by the Tribunal. However, the Tribunal disallowed interest from the date of petition, instead allowed interest from the date of receipt of a copy of the order till the date of actual payment. The same requires modification in light of the decision of the Apex Court in THAZHATHE PURAYIL SARABI vs. UNION OF INDIA (2009 (7) SCC 372).

The applicant is entitled to interest on the compensation amount at 6% per annum from the date of claim petition till date of the award and thereafter, at the rate of 9% per annum, till the date of payment of the compensation amount.

9. The cross objections are allowed to the extent indicated above. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

REDDY, J

A.RAJASHEKER

Dated : 12-02-2016
NRG

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

CMA No.1304 of 2008

-

12-02-2016

Dated : 03.12.2015

TJS