

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.555 of 2010

JUDGMENT:

This appeal is preferred questioning order dated 16.04.2010 in O.A.A No.165 of 2005 on the file of Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

2. Respondent herein submitted application before Railway Claims Tribunal, Secunderabad (for short "lower tribunal") under Section 16 of the Railway Claims Tribunal Act read with Section 124A & 125 of Indian Railways Act, 1989 claiming compensation of Rs.4,00,000/- for the injuries sustained by him in an untoward incident of accidental fall from train on 16.04.2005. According to claimant, on 16.04.2005 he went to Warangal railway station to go to his mother's sister's house, who stays at Bhadrachalam to spend his vacation and he purchased a journey ticket from Warangal to Bhadrachalam road and boarded train No.324 passenger to go to Bhadrachalam road and travelled in the above said train up to Bhadrachalam road and while getting down from the train at Bhadrachalam, he accidentally slipped and fell down from the above said train and sustained severe injuries all over his body and that the railway officials shifted him to hospital and that he is entitled for compensation. This claim was resisted by the Railways contending that there is no cause of action for the claimant to file application as the incident does not fall within ambit of Section 123(c)(ii) or Section 124-A of Railways Act. Railways further contended that the applicant was negligent in traveling at the door step and alighting the train even before it came to a

complete halt and as such he is not entitled for any compensation. On these contentions, claims tribunal conducted enquiry, during which, claimant himself is examined as AW.1 and got marked Ex.A1 to Ex.A8 and on behalf of respondent-Railways, one witness is examined and Ex.R1 and Ex.R2 are marked and on a over all consideration of oral and documentary evidence, lower tribunal has not accepted the version of railways and granted Rs.4 lakhs as compensation by taking into consideration the gravity of injuries. Aggrieved by the same, present appeal is preferred.

3. Heard arguments.

4. Advocate for appellant submitted that the lower tribunal awarded Rs.4 lakhs, whereas, compensation prescribed for amputation is only Rs.2,50,000/- and that order of tribunal is contrary to the provisions. She further submitted that the claimant was negligent in getting down from the train and that he jumped from the train even without complete stop and therefore the railways is not liable to pay any compensation. She further submitted that gravity of the injuries are not properly considered by the tribunal and it only carried away with the submissions of claimant and the compensation granted is beyond jurisdiction, as such, order of lower tribunal is liable to be set aside.

4. No arguments are advanced on behalf of claimant.

5. Now the point that would arise for my consideration is:

Whether the order of lower tribunal is legal, proper and correct?

POINT:

6. The main contention of railways is that injury sustained by claimant is self-inflicted injury, which falls under exceptions (a)

to (e) to Section 124A of Railways Act, but the tribunal has not considered this aspect. As seen from the order of lower tribunal this objection is raised in the written statement and was considered but not accepted as the railways has not produced any evidence to show that the injury sustained by claimant was self-inflicted injury and falls under the exceptions (a) to (e) to Section 124A of Railways Act. The appellant examined only one witness, who is Senior Booking clerk at Khajipet to support the plea of Railways that claimant is not a bonafide passenger. But the evidence of RW.1 was not accepted by lower tribunal in view of the evidence of claimant which is supported and corroborated with the original journey ticket, which is marked as Ex.A1. From the evidence on record, it is clear that respondent herein boarded train No.324 as passenger from Warangal to Bhadrachalam road and travelled in the said train upto Bhadrachalam road and while getting down from the train, he slipped and fell down accidentally and sustained injuries all over his body. Even the booking clerk, RW.1 admitted that Ex.A1 journey ticket was issued by him for train No.324. Considering the same, lower tribunal discarded the objection of railways that the injured was not a bonafide passenger and held that he is a bonafide passenger travelled in train No. 324 from Warangal to Bhadrachalam road.

7. with regard to contention that the claimant is not entitled for Rs.4 lakhs, this was dealt in para-10 of its order. The lower tribunal recorded that injury sustained by respondent do not fall within the ambit of Rule 3, part 2(3) of schedule of compensation payable under Railway Accidents & Untoward Incidents (Compensation) Rules 1990, and observed that respondent had double amputation i.e., thigh or amputation through leg or thigh on one side and loss of foot on the other side and taking that into

consideration, granted Rs.4 lakhs as compensation.

8. Advocate for appellant submitted that injury sustained by claimant falls under S.No.24 and 28 of part-2 of schedule, but on verification of the record, the same cannot be accepted because it is not amputation of one foot resulting in end bearing and not loss of toes of one foot through metatarsal phalange joint. As per Rule 3 of the Railway Accidents & Untoward Incidents (Compensation) Rules 1990, the amount of compensation payable in respect of death or injuries shall be as specified in the schedule and if the compensation payable for injury is not specified in part 2 (3) of schedule of compensation, opinion of lower tribunal shall not exceed Rs.4 lakhs. So the outer limit of tribunal is Rs.4 lakhs for the injuries not specified in part-2 and part-3 of the schedule.

9. As seen from the record, injuries sustained by claimant was not covered by part-2 or part-3 of schedule and as the tribunal is vested with power to grant compensation upto the limit of Rs.4 lakhs , I do not find any wrong in the quantum fixed by lower tribunal while taking the gravity of injuries into consideration. Lower tribunal has elaborately considered each and every aspect and rightly negated the objection of railways and I do not find any grounds to interfere with the order of lower tribunal.

10. For these reason, the appeal is devoid of merits and liable to be dismissed.

11. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 30-03-2016.

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