

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.516 of 2010

Date:28.03.2016

Between:

Union of India
rep by its General Manager,
East Coast Railways,
Bhubaneswar.

...Appellant.

AND

K. Durga Prasad

...Respondent.

The Court made the following :

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C.M.A No.516 of 2010

JUDGMENT:

This appeal is preferred against order dated 21-04-2010 in OAA No.76/2005 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondent herein submitted application under Section 16 of Railway Claims Tribunal Act read with Section 124-A & 125 of the Railways Act claiming compensation for the injuries sustained by him

on 05-03-2005. He contended that he had been to Kureru and from there, he intended to visit Bobbili for that, he purchased railway ticket under Ticket bearing No.20098 for train No.237 Rayagada-Visakhapatnam Express, in the general compartment and when the train had come to Parvathipuram station and while leaving the platform, due to the sudden jerks of the train and rush of passengers, he suddenly slipped and fell down from the train at about 12:20 hours and his left hand was cut and separated from the shoulder and that the passengers and railway officials sent him to Parvathipuram Hospital from there, he was shifted to King George Hospital, Visakhapatnam and there amputation was done. Appellant herein resisted the claim of the respondent herein contending that claimant was not a bonafide passenger and that he sustained injury due to his own fault and negligent act.

On these contentions, Railway Claims Tribunal conducted enquiry during which, the injured himself was examined as A.W.1 and got marked Exs.A1 to A9 and on appellant side, R.Ws.1 & 2 were examined and Ex.R1 was marked. On a over all consideration of oral and documentary evidence, the claims Tribunal has not accepted the objection of the Railways and granted compensation of Rs.3,20,000/- and questioning the same, Railways preferred the present appeal.

3. Advocate for appellant submitted that the injury is a self-inflicted injury and due to the negligence of the claimant, he sustained that injury and the Railways cannot be held responsible for that and it would come under self-inflicted injury, which is exempted under Section 124-A of the Railways Act. He further submitted that the claimant has not produced the ticket and the ticket pleaded is planted one and that he is not a bonafide passenger and therefore, Railways are not liable to pay any compensation. He further submitted that Railway Claims Tribunal has not properly considered the objection of

the appellant and the material on record would clearly disclose that the claimant tried to catch a running train and in the process, he fell down and sustained injuries and therefore, it is not an accidental fall. He submitted that the order of the Claims Tribunal is liable to be set aside.

4. On the other hand, Advocate for claimant submitted that the burden is on the railways to prove that claimant is not a bonafide passenger, which is a settled principle of law and in this case, the Railways have not produced any material to show that the respondent herein is not a bonafide passenger.

He further submitted that when the claimant has given the ticket number in his claim application, it is for the railways to show that the same is not a bonafide ticket and without any evidence, the contention of the appellant that the ticket is fabricated cannot be accepted. He further submitted that the injury sustained by the claimant is only due to accidental fall of a untoward incident and the Hon'ble Supreme Court in a similar set of facts held that the injury sustained by a person trying to board a running train, would also fall under untoward accident and the Railway Claims Tribunal has rightly negatived the objection and granted compensation and that there are no grounds to interfere. To support his argument, he has relied on a decision of Hon'ble Supreme Court in **UNION OF INDIA vs.**

PRABHAKARAN VIJAYA KUMAR AND OTHERS^[1].

5. Now the point that would arise for my consideration in this appeal is whether order of the Court below is legal, proper and correct?

6. **Point:** - There is no dispute that the respondent herein sustained injuries on 05-03-2005 at Parvathipuram Railway Station. One of the objections of the appellant is that claimant is not a

bonafide passenger. As seen from the record, the claimant during his evidence got marked the ticket as Ex.A1 and the objection of the railways is that as it was not produced earlier, the same has to be treated as doubtful ticket since the ticket has no date indentation or date stamp, therefore, the same cannot be accepted. The very same objection was raised before the Tribunal and the Tribunal negated the objection of the Railways on the ground that it is for the railways to show that the ticket is a fabricated one. As seen from the record, Station Master filed an affidavit stating that during March, 2006, niaxllites blasted the station, and in that blast, all the records were burnt therefore, the records pertain to 2005 were not available and therefore, it is not possible to show whether the ticket in question was issued on 05-03-2005 or not. Considering the evidence on record, the Tribunal accepted evidence of claimant and the ticket produced by him and treated him as bonafide passenger.

7. As rightly pointed out by the Advocate for claimant, that a duty is to cast upon the officers of the Railways to regulate the entry into railway station and nobody can be allowed to enter into the platform without a valid ticket, therefore, it is for the railways to show how a person entered into the platform without a valid ticket and boarded the train. Until the evidence of claimant, who stated on oath that he purchased a ticket for train No.237 Rayagada-Visakhapatnam Express and ticket No.20098 is rebutted, the objection of the appellant with regard to bonafide passenger cannot be accepted and the claims tribunal has rightly negated the contention of the railways.

8. On a scrutiny of the evidence, I do not find any wrong in the findings of the claims tribunal in accepting that the respondent herein was a bonafide passenger.

9. The other objection of the appellant is that the injury is a self-inflicted injury and it do not come under untoward incident and therefore, the railways are not liable to pay any compensation.

10. In **UNION OF IDNIA vs. PRABHAKARAN VIJAYA KUMAR AND OTHERS¹** the facts are similar to that of this case. In that case, the injured girl tried to enter a running train and in the process, she fell down and the Claims Tribunal held that it was not untoward incident falling within the purview of provisions of Railways Act and dismissed the claim. In the appeal, Karnataka High Court held that incident would fall within the accidental fall as defined under Section 123 (c) of Railways Act and granted compensation and the matter was carried to Supreme Court and the Hon'ble Supreme Court held as follows:-

“We are of the opinion that it will not legally make any difference whether the deceased was actually inside the train when she fell down or whether she was only trying to get into the train when she fell down. In our opinion in either case it amounts to an "accidental falling of a passenger from a train carrying passengers". Hence, it is an 'untoward incident' as defined in [Section 123](#) (c) of the [Railways Act](#).”

It is further held that no doubt, it is possible that two interpretations can be given to the expression 'accidental falling of a passenger from a train carrying passengers', the first being that it only applies when a person has actually got inside the train and thereafter, falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. Since the provision for compensation in the [Railways Act](#) is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, in our opinion the latter of the abovementioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred.”

11. In our case as per the evidence of R.W.2, the gateman deposed that he saw a person trying to catch running train and fall and got his hand cut. So applying the principle laid down in the above referred decision of the Hon'ble Supreme Court, this incident would fall within the meaning of accidental fall as defined under Section 123 (c) of the Railways Act and the objection of the appellant on this score is not tenable.

The Railway Claims Tribunal has rightly negatived the objection and treated the incident as a untoward incident and accidental fall and rightly granted compensation and I do not find any grounds to interfere with the findings of the Railway Claims Tribunal.

12. On a scrutiny of the entire material, I am of the view that the appeal is liable to be dismissed as devoid of merits.

13. For these reasons, appeal is dismissed as devoid of merits and as a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:28.03.2016
mrb

[\[1\]](#) (2008) 9 Supreme Court Cases 527