

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.M.A.No.997 of 2010

JUDGMENT:

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This appeal is filed by the Railways against the order dated 30-07-2010 passed in OAA.No.109 of 2006 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, wherein the Tribunal granted an amount of Rs.4,00,000/- towards compensation to the respondent-claimant.

The facts, which are necessary for disposal of the case, are as under:

On 17-06-2005 at about 5 pm when the Train No.2712 was about to move from Nellore Railway Station, the claimant while attempting to get into the train after purchasing ticket for travelling from Nellore to Ongole, fell down from the train. As a result of which, both legs of the claimant were cut below the knee and were amputated in the hospital while undergoing treatment at Government General Hospital, Nellore and later he has taken treatment at Tirupati. It is stated that the claimant also purchased platform ticket. As such, the claimant filed application under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act claiming compensation of Rs.4.00 lakhs for the injuries sustained by the claimant.

The appellant/Railways filed written statement contending that claim does not fall within the ambit of Section 123(c) or Section 124-A of the Railways Act (for short "the Act"). The claimant was having only platform ticket. As per the report of the Station Master, Nellore, on duty RPF constable informed that one unknown passenger has fallen down while moving 2712 Express on platform No.2, his both legs were crushed and seriously injured. It is further contended that the claimant is not a bonafide passenger of 2712 Express. Since the claimant tried to board running Train negligently and carelessly, the injuries sustained by him amounts to self-inflicted injuries, the Railway Administration is not liable to pay the compensation.

Basing on the evidence of AWs 1 and 2 and Exs.A-1 to A-9 and the evidence of RWs 1 to 3 and Exs.R-1 to R-3, the Tribunal granted compensation of Rs.4.00 lakhs along with interest. Aggrieved by the same, the present application is filed.

Heard learned counsel for the appellant and the learned counsel for the respondent.

Learned counsel for the appellant submits that the claimant was only having platform ticket, but not regular ticket and he was not a bonafide passenger and he himself is negligent. As such, the Railways are not liable to pay the compensation.

In this case it is to be seen that the accident occurred on 17-06-2005 and the claimant is involved in the accident are the facts, which were admitted by the Railway Administration in the written statement. The evidence adduced also goes to show that the claimant's legs were crushed in the accident while falling from the running train. The only plea taken before the Court below was the claimant is not having regular ticket, but only a platform ticket and the claimant himself was negligent and he was not a bonafide passenger. The issues raised by the Railways in this appeal are no longer *resintegra* and they were already decided in several judgments and also in the judgments in **Union of India v. Prabhakran Vijaya Kumar and others**^[1], **Union of India rep.by its General Manager, S.C.Railway v. Uggina Srinivasa Rao and others**^[2] and the judgment of **Union of Inida v. Baburao Koddekar and another**^[3].

In **Union of India v. Prabhakran Vijaya Kumar and others** (supra 1), the Apex Court held as under:

In our opinion, if we adopt a restrictive meaning to the expression 'accidental falling of a passenger from a train carrying passengers' in [Section 123\(c\)](#) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the [Railways Act](#). Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger i.e. a passenger traveling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal, interpretation should be given to the expression.

[Section 2](#) (29) of the [Railways Act](#) defines 'passenger' to mean a person traveling with a valid pass or ticket. [Section 123\(c\)](#) of the Railways Act

defines 'untoward incident' to include the accidental falling of any passenger from a train carrying passengers.

The accident in which Smt. Abja died is clearly not covered by the proviso to 124A. The accident did not occur because of any of the reasons mentioned in clauses (a) to (e) of the proviso to [Section 124A](#). Hence, in our opinion, the present case is clearly covered by the main body of [Section 124A](#) of the Railways Act, and not its proviso.

[Section 124A](#) lays down strict liability or no fault liability in case of railway accidents. Hence, if a case comes within the purview of [Section 124A](#) it is wholly irrelevant as to who was at fault.

In Ashby vs. White (1703) 2 Ld. Raym 938, it was observed (vide Pratt C.J.):

"Torts are infinitely various, not limited or confined".

In Union of India represented by its General Manager, S.C.Railway v. Uggina Srinivasa Rao and others (supra 2) this Court held as under:

“ The point that arises for consideration in these appeals is whether the accident caused to the injured and the deceased would attract the provisions of [Sections 123](#) and [124-A](#) of the Act and if so, whether the amount of compensation awarded by the Tribunal to the injured and the legal heirs of the deceased is reasonable or excessive.

To deal with the questions whether the incident is an "untoward incident" and whether the injured and the deceased are passengers it is necessary to have a reading of [Sections 123](#) and [124-A](#) of the Act. It is relevant to extract the provisions of [Section 123\(cX2\)](#) which defines the meaning of "untoward incident" as follows:

"Untoward incident" means-

- (1) (i) xx xx xx
- (ii) xx xx xx
- (iii) xx xx xx (2) the accidental falling of any passenger from a train carrying passengers.

With regard to the compensation that has to be paid to the persons involved in the accident on account of untoward incidents.

A plain reading of [Section 123\(c\)\(2\)](#) says that the "untoward incident" means the accidental falling of any passenger from a train carrying passengers. [Section 124-A](#) of the Act says that when in the course of working a railway an untoward incident occurs and then whether or not there has been any wrongful act, neglect or default on the part of the railway administration, the injured or the legal heirs of the deceased entitle for compensation.

In this case on hand whether the injured person, who purchased a valid ticket to travel in the train, and the deceased person, who was working with the railways, are come within the meaning of "passengers". Explanation (i), (ii) to [Section 124-A](#) of the Act says the "passenger" as railway servant on duty and a person who has

purchased a valid ticket for travelling by a train carrying passengers on any date or a valid platform ticket and becomes a victim of an untoward incident.

In **Union of India v. Baburao Koddekar** (supra 3) Division Bench of this Court held as under:

As extracted above, [Section 124A](#) of the Railways Act, 1989 provides that when in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration, a passenger who was injured or killed is entitled for compensation. Therefore, in our considered view, as provided in this section, there is no obligation on the part of the injured/claimants of the deceased to prove whether there was a wrongful act, neglect or default on the part of the railway administration. Suffice it to say, if any bonafide passenger having a ticket, as defined under clause (29) of [Section 2](#) of the Act dies in an untoward accident, it is incumbent upon the Railways to pay the compensation to the victim/claimants of the deceased without putting up any dispute, provided the death of the deceased does not fall within any of the five exceptions (a) to (e), as indicated above, of the said [Section 124A](#) of the Act. Under Explanation (ii) to [Section 124A](#) of the Act, a valid platform ticket-holder is also brought within the fold of the term 'passenger' and if such a platform ticket holders dies in any untoward incident, his Legal Heirs are entitled to seek compensation.

A valid platform ticket-holder is also brought within the fold of the term 'passenger' and if such a platform ticket holder dies in any untoward incident, his Legal Heirs are entitled to seek compensation. It is also held that the Railways are not liable to pay compensation if it proves that deceased is not a bonafide passenger. Since in this case, admittedly the claimant is having platform ticket and accident itself is not in dispute, and in view of above facts and circumstances, I do not see any merit in the appeal and it is liable to be dismissed.

Accordingly, the Appeal is dismissed. As a sequel to the disposal of this Appeal, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

25-01-2016
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- [\[1\]](#) (2008) 9 Supreme Court Cases 527
- [\[2\]](#) 2001(3) ALT 429 (D.B)
- [\[3\]](#) 2002 (4) ALD 843 (DB)