

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CMA No.763 of 2010

Date:26.02.2016

Between:

Union of India rep by its
General Manager,
South Central Railways,
Secunderabad.

... Petitioners.

AND

R. Rathan

...Respondents.

The Court made the following :

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JUDGMENT:

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This appeal is preferred questioning order dated 05-07-2010 in O.O.A.No.41/2003 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondent herein filed a petition under Section 16 of the Railway Claims Tribunal Act, 1987 claiming a compensation of Rs.4,00,000/- for the injuries sustained by him in a railway accident. He contended that on 12-01-2003, while he was travelling as a passenger from Vijayawada to Dornakal in Train No.338,

Vijayawada-Dornakal Passenger in general compartment, he slipped and fell down accidentally at Dornakal Railway Station from the running train between platform and train, as a result, his right leg foot was severed and crushed and sustained crush injury besides other injuries from the body and that he was shifted to M.G.M., Hospital, Warangal for necessary medical treatment. Claim of the respondent herein was resisted by the appellant on the ground that the injured is an unknown passenger, who was standing on Dornkal Platform No.1, tried to cross the track in the process, he was hit by train and injured and that he was not a passenger boarded Train No.388, Vijayawada - Dornakal passenger. On these contentions, Railway Claims Tribunal conducted enquiry and before it, the injured himself was examined as A.W.1 and got marked Exs.A1 to A3, whereas Engine Driver of the train was examined as R.W.1, Deputy Station Superintendent was examined as R.W.2 and the Guard of the train was examined as R.W.3 and got marked Exs.R1 to R5. On a over all consideration of oral and documentary evidence, Railway Claims Tribunal accepted the claim of the injured and disbelieved the version of appellant and granted a sum of Rs.2,00,000/- with interest at 6% per annum from the date of application till the date of order and thereafter, at 9% per annum till realization. Questioning the said order, present appeal is preferred.

3. Respondent in spite of service of notice neither appeared in person nor through any advocate.

4. Advocate for appellant submitted that the Tribunal ought to have rejected the compensation of the respondent herein as he failed to prove that he is a *bonafide* passenger as on the date of incident. She submitted that the respondent has not produced the ticket to show that he travelled on Train No.388 from Vijayawada on the date of accident. She submitted that the evidence of R.Ws.1 to 3, which clearly shows that the injured jumped from Platform No.1 on to the

track and in the process, he was hit by the train and he is not a *bonafide* passenger and therefore, the compensation granted by the tribunal is not tenable. She further submitted that the tribunal erroneously held that the incident falls within the definition of untoward incident under Section 123 (c) (2) of the Railways Act and that the evidence on record would clearly disclose that it is an intentional act on the part of the injured therefore, the order of the tribunal has to be set aside.

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

6. **Point:-** As seen from the record, the fact that respondent herein sustained injuries on 12-01-2003 at Dornakal Railway Station is not in dispute. It is the contention of the respondent herein that he boarded Train No.388, Vijayawada-Dornkal Passenger in general compartment as a passenger, and while traveling in it, he slipped and fell down from the running train and sustained injuries. On the other hand, it is the contention of the railways that the respondent herein was sitting on Platform No.1 and while crossing the track, he fell down and sustained injuries and that he is not a *bonafide* passenger. Respondent herein as A.W.1 deposed in his evidence supporting his version and the manner in which, he sustained injuries, but the driver of the train deposed that when the train arrived at Dornakal Station around at 9:50 P.M., he applied brakes and saw a middle aged man standing on the Dornakal Platform and jumped in front of the engine and in the result, said person sustained injuries. The Railway Claims Tribunal has scrutinized the evidence of driver and the other two witnesses examined on behalf of the department and came to conclusion that their evidence is not corroborating with each other as they gave contradictory versions, and that respondent cannot sustain

such crush injury, if really he was hit by the engine from front side. As the nature of injuries supports the version of the respondent, the claims tribunal has not accepted the plea of the railways and granted compensation. As rightly observed by the Claims Tribunal respondent herein was a victim of untoward incident and simply because he has not produced the railway ticket, he cannot be termed as not a *bonafide* passenger.

The injured has offered explanation in his evidence that in the accident, he lost his ticket, which is convincing and the tribunal accepted it.

7. On a scrutiny of the material, I do not find any wrong in the order of the Railway Claims Tribunal and it correctly assessed the evidence on record and came to a right conclusion and I do not find any grounds to interfere with the compensation granted by the Claims Tribunal.

8. For these reasons, appeal is dismissed as devoid of merits. No costs.

9. As a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:26.02.2016

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