

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.905 of 2010

JUDGMENT:

This appeal is preferred challenging order dated 29.07.2010 in O.A.A.No.411 of 2006 on the file of Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short 'the Claims Tribunal').

2. Appellant herein is claimant/injured who submitted an application under Section 16 of the Railway Claims Tribunal Act, 1987 claiming compensation of Rs.4,00,000/- for the injuries sustained by him in an untoward incident of accidental fall from the train and the Claims Tribunal on consideration of the material and the nature of injuries, granted a sum of Rs.80,000/- as against the claim of Rs.4,00,000/-. Aggrieved by the order of the Claims Tribunal, injured preferred the present appeal.

3. Heard arguments.

4. Advocate for appellant submitted that Claims Tribunal ought to have seen that appellant received grievous injuries due to untoward railway incident and he spent huge amounts towards medical expenses amounting to about Rs.3,00,000/-, but the Claims Tribunal without taking into consideration of the medical expenses only awarded Rs.80,000/-. He further submitted that appellant is entitled for more compensation. To support his arguments, he relied on the decision of Punjab & Haryana High Court in ***Sher Singh Vs Union of India, through General Manager, Northern Railway***^[1] and the decision of Bombay High

Court in ***Union of India Vs Sanjay Sampatrao Gaikwad Etc.*** ^[2]

5. On the other hand, advocate for respondent submits that the Claims Tribunal has rightly fixed the compensation and there is no material before the Railway Claims Tribunal to support the claim of Rs.4,00,000/-. He further submitted that as per the Rules the outer limit for non-scheduled injury is Rs.80,000/ and the Tribunal has granted the maximum amount of Rs.80,000/- Therefore the objection of the appellant is not tenable.

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

Whether the Award of Claims Tribunal is legal, proper and correct?

POINT:

7. There is no dispute that appellant received injuries due to accidental fall from the train. Before the Claims Tribunal, appellant was examined as AW.1 and through him copy of FIR, Medico Legal Case record, Original train ticket, Outpatient medical record, discharge record, patient charges account, certificate issued by NIMS Hospital, Hyderabad, Essentiality Certificate and receipt issued by Medbone Trauma & Ortho Care towards ambulance charges, were considered and on the basis of such evidence, Claims Tribunal granted compensation of Rs.80,000/-.

8. As per the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 1997 (for short 'the Rules') the outer limit for non-scheduled injuries is Rs.80,000/- and so far as the scheduled injuries are concerned, the amount prescribed in the schedule has to be taken into consideration. Admittedly, the injury sustained by the appellant is a non-scheduled injury.

9. Now the contention of advocate for the appellant is

that as the Claims Tribunal has not awarded any amount towards pain & suffering, medical expenses, this Court has to grant compensation on the principle of just compensation and therefore, Rs.80,000/- granted by the Claims Tribunal has to be enhanced.

10. In ***Sher Singh Vs Union of India's case (1st supra)*** the injury therein was also a non-scheduled injury and the Tribunal granted a compensation of Rs.20,000/- and while considering pain & suffering and other aspects, High Court enhanced the compensation by another Rs.10,000/- which is within the limit of Rs.80,000/-. But that decision is no way helpful to the appellant herein.

11. In ***Union of India Vs Sanjay Sampatrao Gaikwad's case (2nd supra)***, it was a scheduled injury and the Tribunal granted less than the amount indicated in the schedule and considering the evidence produced on behalf of the claimant therein, the medical expenses incurred by the injured were directed to be reimbursed by the Railways. But in our case it is not a scheduled injury, therefore, this decision is also not applicable to the facts of this case.

12. As seen from the order of the Claims Tribunal, these aspects now raised here were considered in issue No.4 and recorded that the applicant is not falling in any of the scheduled injuries and therefore, the appellant is not entitled to get any compensation as per the schedule. Claims Tribunal considered the injuries sustained by the appellant and so also the treatment undergone and also considered the medical evidence including the factor of pain and suffering, granted maximum amount indicated in the Rules for non-scheduled injuries and I do not find any wrong in

the order of the Claims Tribunal. When the Rules indicate ceiling in respect of non-scheduled injuries, the Tribunal cannot grant more than the amount prescribed in the Rules, in respect of non-scheduled injuries.

13. For these reasons I am of the view that the Tribunal has not committed any error in restricting the appellant's claim to Rs.80,000/- as against the claim of Rs.4,00,000/- and that there are no grounds to interfere with the findings recorded by the Railway Claims Tribunal.

Accordingly, this C.M.A. is dismissed. No costs. Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 01st March, 2016.
Rds

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Dated : 01.03.2016

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Rds

[\[1\]](#) 2004 Law Suit (P &H) 802

[\[2\]](#) AIR 2002 Bombay 436 (1)