

HONOURABLE SRI JUSTICE S.RAVI
KUMAR

C.M.A.No.734 OF 2011

Dated 16-6-2016

Between:

Union of India represented by its General
Manager,East Coast Railways, Bhuvaneshwar.

..Appellant.

And:

Gajendra Kumar.

..Respondent.

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HONOURABLE SRI JUSTICE S.RAVI KUMAR

C.M.A.No.734 OF 2011

JUDGMENT:

This appeal is against order dated 26-11-2010 in O.A.A.No.380 of 2005 on the file of Railway Claims Tribunal, Secunderabad Bench.

Respondent herein submitted application under Section 16 of Railway Claims Tribunal Act, read with Sections 124-A and 125 of Railways Act contending that on 12-8-2005, he went to Balasore station and purchased ticket No.03595013 for Visakhapatnam and boarded train No.2481 Coramandal Express and while travelling he fell down from running train at Gujularegal bridge near Vizianagaram and became unconscious and that he was shifted to Satya Sai Hospital, Vizianagaram and later to Abhaya Critical Care, Visakhapatnam and remained as impatient on 13-8-2005 and that he suffered fracture of left Femur bone, fracture of left humerous bone, injury on head requiring sutures, multiple lacerated wounds on both hands etc., and that he is entitled for a compensation of Rs.4,00,000/-.

Railways opposed the claim and contended that claim is not maintainable as the F.I.R. was given by the

injured much latter and no Medico Legal Case has been registered and as the wound certificate etc., were from a private hospital, they cannot be accepted. It is contended that the injuries may be self inflicted injury and that the applicant was not a bonafide passenger for train No.2481 and not entitled for compensation.

On these contentions, Claims Tribunal conducted enquiry during which one witness is examined and nine documents are marked on behalf of claimant and on behalf of railways no witness is examined and no documents are marked and on an over all consideration of the material, claims tribunal granted compensation of Rs.1,40,000/- and aggrieved by the same, appeal is preferred.

Heard arguments.

Advocate for appellant submitted that injured has not given any report to the railway police and he was not treated by railway hospital and his entire treatment was in a private hospital, there is no material to show that he sustained these injuries in a untoward incident. He further submitted that the injuries are self inflicted injuries and therefore, railways has no liability.

It is further submitted that last 4 digits of the ticket purchased by the injured are not visible, therefore, it cannot be treated as valid ticket and as the injured failed to prove that he is a bonafide passenger, he is not entitled for any compensation.

On the other hand, advocate for claimant submitted that the very same objection was raised before the Claims Tribunal and Claims Tribunal discarded the same basing on the report of DRM and therefore, objection of railways is not tenable.

Now the point that would arise for my consideration in this appeal is whether the order of tribunal is legal,

correct and proper?

POINT:

It is the case of the respondent herein that on 12-8-2005, he purchased ticket from Balasore to Visakhapatnam and boarded train number 2481 Coramandal Express. He has furnished train ticket No. as 03595013 and ticket is marked as Ex.A.1. When ticket number is furnished, it is for the railways to verify the correctness of the same from Balasore railway station and if really, no such ticket was issued by Balasore Railway station, they have to produce evidence to that effect but admittedly, no evidence is produced on behalf of railways except taking a plea. Therefore, the objection of the railways that the ticket purchased by the injured is not a valid ticket and that he is not a bonafide passenger cannot be accepted.

The other objection of the railways is that there was no untoward incident and the claimant failed to prove that he sustained these injuries in an untoward incident. The very objection was raised before Railway tribunal. As seen from the record, DRM caused an enquiry and submitted a report in which he clearly concluded that the claimant was a bonafide passenger who fell down from the train while standing near the door but however, he contended that it was due to own negligence of the injured. But the fact remains from the report of D.R.M. that the injured travelled in train number 2481 Coramandal Express on the fateful day and fell down from running train. Relying on the D.R.M. report, the claims tribunal recorded a finding that injured was a bonafide passenger and sustained these injuries in an untoward incident. Now it is the contention of the railways that D.R.M. has given a wrong report but that cannot be accepted and if really report of D.R.M. was incorrect, necessary departmental action should have been taken against such officer for

giving such a wrong report and without any such material, railways cannot contend that the report of the D.R.M. has to be discarded on the ground that it is an incorrect report.

As rightly pointed out by advocate for claimant, railway claims tribunal rightly accepted the report of the D.R.M. which is in favour of the injured and I do not find any wrong in the approach of the railway claims tribunal.

As seen from the material, claims tribunal has rightly appreciated material on record and came to a right conclusion and that there are no grounds to interfere with the findings of the claims tribunal, particularly, when no evidence is adduced on behalf of railways.

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

As a sequel to the disposal of this appeal, Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI
KUMAR

Dated 16-6-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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