

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.06.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

C.M.A.No.1141 of 2018

M.Mahalakshmi

...Appellant

Versus

Union of India, rep. by
The General Manager,
Southern Railways,
Southern Railway Head Quarters,
Chennai - 600 003.

...Respondent

This Civil Miscellaneous Appeal is filed under Section 23 of the Railway Claims Tribunal Act 54 of 1987, praying to set aside the order dated 08.11.2017 passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.(II-U) 97 of 2017 and pass the statutory compensation amount of Rs.1,60,000/- with interest at 12% p.a. from the date of filing of the claim application viz., 21.06.2017 till the date of payment and the costs of the proceedings.

For Appellant : Mr.S.Alexraj
for Mr.A.Shanmugaraj

For Respondent : Mr.M.Vijay Anand

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JUDGMENT

The appellant herein challenges an award passed by the Railway Tribunal in O.A.No.(II-U)97 of 2017. The case of the appellant is that on 21.12.2016, she had boarded the Train No.16105 Chennai Egmore Thiruchendur Express, at Egmore Railway Station after procuring necessary ticket for her travel. During the course of the travel at about 05:00 p.m, when the train was running between Singaperumal Koil Railway Station and Chengalpattu, a stone flew from outside and hit on her cheek, owing to which she had become unconscious and fell down. She was taken to Chengalpattu Medical College Hospital immediately after the accident and then to MIOT Hospital where she took treatment as an inpatient from 22.12.2016 to 26.12.2016 and spent a sum of Rs.1,16,000/- towards medical expenses. Subsequently, she was examined by Dr.T.S.Kalkura who issued a disability Certificate dated 04.05.2017, as per which the appellant is said to have suffered 45% disability. Claiming a compensation of Rs.1,60,000/- for unscheduled injury suffered by the claimant, she moved the Railway Tribunal. The Railway Tribunal however awarded only Rs.1,00,000/- as compensation. The Tribunal had noted that the injury had not deprived the applicant of her ability to work or her capacity to earn.

2. The learned counsel for the appellant would contend that the appellant had expensed Rs.1,53,424/- towards medical expenses and these medical expenses are not reimbursed.

3. The learned counsel for the respondent/Railways submitted that the Rule does not permit to the reimbursement of medical expenses. Secondly, the accident had not taken place due to any negligence on the part of the Railways and the Railways cannot take any responsibility for the stone which flew from outside into the train. It is in this circumstance, the Railway Tribunal has taken in to account the fact that the appellant had not suffered any injury of the nature that has disabled her permanently and passed an award for Rs.1,00,000/- as compensation.

4. It is true that the nature of injury suffered by the appellant does not find a place in the schedule of injuries, for payment of specific compensation. However, what the appellant claimed is that she travelled in the train and for no fault of hers, she suffered injury and spent Rs.1,53,424/- for her medical expenses, but received only Rs.1,00,000/- as compensation from the Railways Tribunal. For traveling in a Train, the appellant had suffered a loss of Rs.1,53,424/-, which this Court consider it as unconscionable. It is in this circumstance, this Court deems it appropriate to pass an award of Rs.1,60,000/- to the appellant as at least that can take care of most of the medical expenses.

5. In the result, this appeal is allowed and the order passed by the Railway Claims Tribunal, Chennai Bench in O.A.No. (II-U) 97 of 2017 on 08.11.2017 is set aside and the respondent is directed to pay a compensation of Rs.1,60,000/-.

6. It is stated that Rs.1,00,000/- is submitted in the Court. Rs.25,000/- is withdrawn, and the Railway is directed to deposit the remaining Rs.60,000/- with interest at 6% throughout within two months from the date of receipt of a copy of this order and the appellant is permitted to withdraw the same forthwith. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrr

To:

- 1) Railway Claims Tribunal,
Chennai Bench.
- 2) The Section Officer,
VR Section, High Court, Madras.
(2 Copies)

+1cc to Mr.A.Shanmugaraj, Advocate, S.R.No.37805
+1cc to Mr.M.Vijay Anand, Advocate, S.R.No.37275

C.M.A.No.1141 of 2018

KJI (CO)
BM 29/06/2018

सत्यमेव जयते

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