

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.1994 OF 2009 AND
M.P.NO.2 OF 2009

The Union of India owning
Southern Railways,
Represented by its General Manager,
Chennai

... Appellant/Respondent

Vs.

A.Ravi

.. Respondent/Applicant

Prayer:

Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal act 54 of 1987 against the final orders passed in O.A.No.2007 00079 by the Railway Claims Tribunal, Chennai Bench dated 24.09.2008, received on 03.10.2008.

For Appellant : Mrs.T.P.Savitha

For Respondent : Mr.R.Y.George Williams

JUDGMENT

The Union of India owing Southern Railways represented by its General Manager has filed this Civil Miscellaneous Appeal against the final order passed in O.A.No.2007 00079 by the Railway Claims Tribunal, Chennai Bench dated 24.09.2008, for setting aside the same.

2.The case of the respondent/passenger was that one Ravi had filed a petition under RCT Act against the Railway administration for payment of compensation for the injuries sustained by him in a untoward incident happened on 13.07.2006 at Podanur railway station around 3.15 hours. The said passenger/respondent was travelling in a train with a valid second class super fast unreserved ticket on 12.07.2006 from Chennai Central station to Coimbatore junction.

3.The respondent would contend before the Tribunal that he was working in L.I.C. and had come to Chennai to attend a social

function and the same was over by 3.00 O' clock and therefore, he wanted to return to Coimbatore by the first available train in the evening and hence, he went to Chennai Central Railway Station and enquired the same in the enquiry desk available at Central Railway Station from where he found that Train No.6601, Chennai-Mangalore Mail, was the first train available to Coimbatore scheduled to leave at 18.15 hours. Since he had a doubt whether the said train would go via Coimbatore junction or by the by-pass route via Podanur without touching Coimbatore junction, he went to the booking clerk and enquired about his doubt and has confirmed that the said train will stop at Coimbatore junction and believing the said words of the booking clerk to be true, he has boarded the said train in the unreserved compartment which was over crowded. The same train was nearing Podanur at about 3.15 hours in the wee hours of the night on 13.07.2006 and it was running via by-pass route direct to Podanur without going to Coimbatore junction. Hence, he tried to get down at Podanur. He could reach the door of the compartment with great difficulty since the compartment was over crowded. While he was trying to get down at the station, he could only open the door partially and forced his way out and set his right foot on the platform at Podanur. In the meanwhile, the train started and picked up momentum and he was virtually hanging by holding the iron handle and he was dragged on the platform and at that time he was struggling for his life and his right leg was cut and fell down from the moving train.

4.He would also further contend that only based on the assurance given by the booking clerk who had stated that the train will go to Coimbatore, he has entered the train and when the train was going to the junction and while he was trying to get down from the train at Podanur, he sustained injuries and so sought for compensation for the said accident. The said passenger/respondent would claim that

he was possessing the valid ticket and he became a victim of untoward incident and as per Section 124-A of the Railways Act, a passenger who has purchased a valid ticket for travel by a train, and even a person who possess a valid platform ticket is covered by the inclusive definition and when the person becomes the victim of an untoward incident, he is entitled for compensation and this will not come under self inflicted injury and hence sought for a compensation of Rs.4,00,000/- and the Tribunal has awarded a sum of Rs.2,80,000/- for the scheduled injury.

5.The petitioner Railways filed a counter stating that the respondent has purchased a super fast ticket up to Coimbatore junction and he has travelled by mail train which has not entered through Coimbatore station and also the respondent

herein has tried to alight from a moving train and this cannot be called as an accidental fall and the injuries sustained by him is only due to his negligence and careless act, hence, Railway Administration is not liable to pay any compensation as the said injuries were self inflicted injuries and added that he was not a bonafide passenger as per the rules.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the available materials on record.

7. It could be seen from the records that the respondent injured has filed Exs-A1 to A9 and he himself examined as AW1 and the Railway Administration was examined as RW1 and RW2 but didn't produce any materials or documents to defend their case. From the incidents narrated by the respondent /passenger, it is seen that since the train was crowded and there were people sitting and sleeping near the door and so he could open the door only partially and while he was trying to alight from the train, he forced his way out and set his right foot on the platform. In the meanwhile, the train started and he was virtually hanging, due to which he lost his right leg. His evidence was corroborated by the certificates issued by the Police Department as Ex-A1 and there was no contra evidence produced by the Railway authorities to disprove his claim. The senior booking clerk were examined as witnesses for Railways. Eventhough she has stated that the train will not go to Coimbatore and she has also denied the fact that the applicant had enquired about the said train whether it will go to Coimbatore or not. But she would submit in her re-examination that Train No.6601 will not go via Coimbatore and she was not in a position to say that whether on that particular day she has met that person, as on that particular day, thousands of passenger approached the counter asking for various enquiries during their shift time and she was not aware of the said person asking her. They were examined after two years of the said incident and it is not possible for them to remember whether the injured respondent/passenger has approached them for an enquiry that the said train will go to Coimbatore or not.

8. It is clear that no other evidence was produced by the Authorities to prove the negligence on the part of the applicant. Since the respondent/claimant was working as an L.I.C. agent at Coimbatore and he has no malafide intention to deliberately board the said train to travel beyond Coimbatore, and since, he is an educated person, he would not self inflicted an injury which will be detrimental to his future life. The untoward incident occurred to him, may be was due to the reason that he was in a bonafide impression that the train will go to Coimbatore and when he realized that the train was going to

Podanur without going via Coimbatore, he in an anxiety tried to get down from the train as he had no other way to get down from the train. When there is no intention on the part of the respondent to sustain a self inflicted injury and when there is no contra evidence produced by the authorities to the said person's injury the incident comes under Section 124-A of the Railways Act. A person who has to self inflict himself has to do it out of his own volition and he should have pre-determined mind to do so. When the person reached Coimbatore in wee hours and the train was going away from the said route he has only intention to get down from the train, wherein he sustained injury due to the non cooperation from the fellow passengers who have allowed him to reach the doors of the said compartment. There was no other evidence to show that the petitioner has any attempt on his part to injure himself for claiming a compensation. Also the negligence on the claimant has not been established and hence, Section 124-A is attracted thereby. The claimant has established his case that he has sustained injuries only as a result of untoward incident that occurred on that fateful day.

9. From the medical records, it could be seen that the respondent fell down from the moving train his right leg was cut and so he was admitted in Rex Ortho Hospital, wherein his right leg was amputated above knee. The medical records were also produced by the Railway and from that it could be seen that the nature of the injury has been proved and the right leg of the respondent was amputated and the Doctor's certified that the amputation in question is a scheduled injury under item No.18 of the Compensation Rules. The Rule 3 of the Compensation Rules specifies a sum of Rs.2,80,000/- as compensation for amputation below hip with stump exceeding 5" in length measured from tip of great trenchantore but not beyond middle thigh. The nature of the injuries sustained by the respondent would clearly falls under No.18 of the schedule and accordingly, the Tribunal has awarded a sum of Rs.2,80,000/- as compensation and this Court finds that reasonable amount was awarded by the Tribunal as per the schedule. This Court is not inclined to interfere with the said order passed by the Tribunal. The tribunal has appreciated the evidence in proper perspective and based on the facts and the common sense and realities. Since Sections 123 and 124-A are beneficial legislations in the interest of public and it has to be liberally construed so as to fulfil the object of the said provisions and as such, the tribunal has rightly held that the respondent's accident comes under Section 124-A and has rightly awarded the compensation to a sum of Rs.2,80,000/- with interest at 9% per annum.

10. This Court is of the opinion that the findings given by the Railway Tribunal is correct and well reasoned one and this

Court upheld the same and the amount whichever deposited in the account as a term deposit with accrued interest is permitted to be withdrawn by the petitioner by filing a formal petition, before the Tribunal.

Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

vji/nsd

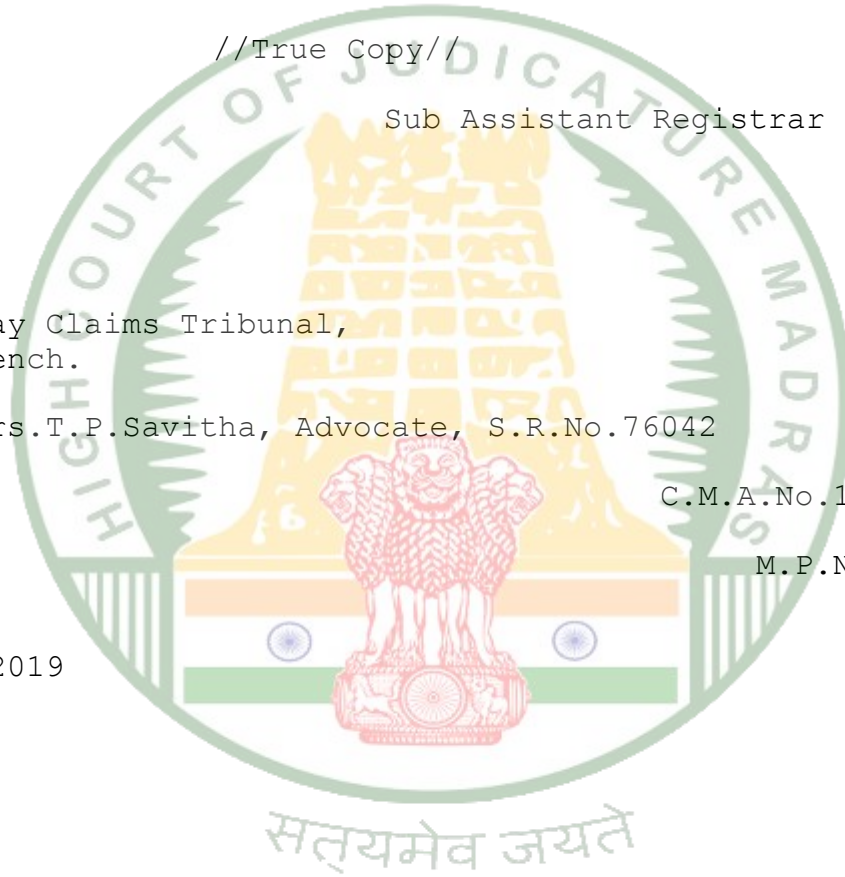
To

The Judge,
The Railway Claims Tribunal,
Chennai Bench.

+lcc to Mrs.T.P.Savitha, Advocate, S.R.No.76042

C.M.A.No.1994 of 2009
and
M.P.No.2 of 2009

SSI (CO)
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