

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.04.2018

CORAM

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

C.M.A.No.1326 of 2013

B.Balamurugan

... Appellant / Applicant

Versus

The Union of India Owning
Southern Railway
Rep.by its General Manager,
Chennai.

... Respondent/ Respondent

Appeal filed under Section 23(1) of Railway Tribunal Act,
against the Order in O.A.(II-U) No.105/2012 dated 01.11.2012
passed by the Railway Claims Tribunal, Chennai Bench.

For Appellant : Mr.S.Parthasarathy

For Respondent : Ms.Monisha for Mr.M.T.Arunan
Additional Central Government
Standing Counsel

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the Order passed in O.A.(II-U) No.105/2012 dated 01.11.2012 by the Railway Claims Tribunal, Chennai Bench (in short, the 'Tribunal'), in and by which, the Tribunal has awarded a compensation of Rs.80,000/- with interest at 9% p.a. to the injured/claimant for the injuries sustained by him in untoward incident that occurred on 4.4.2012.

2. The brief facts of the case are as follows:

The claimant/injured one Bala Murugan was holding a Season Ticket from Kodai Road to Madurai valid from 10.2.2012 to 09.03.2012. He boarded Train No.16724 at Madurai for his return journey to Kodai Road and while during journey, all of sudden, he fell down from the running train due to heavy crowd near Samayanallur as a result of which, he sustained head injury and lost consciousness. Immediately, he was taken to Appollo Hospital Madurai where, he took treatment till 28.3.2012 and thereafter, he was admitted to Government Rajaji Hospital,

Madurai. Claiming a compensation of Rs.4,00,000/-, on behalf of the appellant, a claim petition was filed by his mother.

3. Resisting the claim petition, the respondent filed a counter, wherein, it is stated that the claimant/injured was not a passenger and the injury caused was due to some other reason other than falling from train and hence the respondent is not liable to pay compensation under Section 124-A of the Railways Act. In the report of the Divisional Railway Manager, Madurai Division, it is stated that the claimant/injured sustained injuries due to his travel on the foot board on the fateful day.

4. Before the Tribunal, mother of the injured was examined as AW.1 and got marked Exs.A1, copy of the FIR and Ex.A2, copy of the MST and on behalf of the respondent, Ex.B1 report of the Divisional Railway Manager, Madurai Division was marked and no witnesses were examined.

5. The Tribunal having examined the matter in the light of the materials placed before it and having followed the relevant decisions, has held that the injury sustained by the claimant/injured who was a bona fide passenger while travelling in a train on 23.2.2012, was a result of an untoward incident as defined under Section 123 (2) of the Railways Act, 1989 and having held so, the Tribunal determined the quantum of compensation at Rs.80,000/- based on the medical discharge summary of Appollo Hospital and directed the respondent to pay the same with interest at 9% p.a. from the date of the order till the date of actual payment.

6. Having dissatisfied with the quantum of the compensation awarded by the Tribunal, the claimant/injured has preferred the present appeal.

7. The learned counsel appearing for the appellant/injured would contend that the Tribunal ought to have awarded maximum compensation while considering the nature of injuries, which are grievous sustained by the appellant/injured and period of treatment underwent by him in Appollo Hospital and the Government Hospital. The learned counsel pointed out that the Tribunal ought to have awarded compensation towards pain and suffering, loss of earning, extra nourishment and medical expenses, etc. Therefore, the learned counsel would submit that the quantum of compensation is very meagre and the same is required to be enhanced.

8. There is no dispute in regard to the untoward incident that had occurred on 23.2.2012 and the injuries sustained by the appellant. On a perusal of Ex.A2, it reveals that the injured had sustained head injuries, facial disfiguration and his speech

. He has comprehensive slurred speech and injuries in the limb, hand grip, finger grip are decreased. Further, the Doctor who treated the appellant has assessed the disability at 50% . Considering the nature of injury sustained by the appellant, the treatment underwent by him and also for the pain and suffering and the disability sustained by the appellant, It would be just and proper to award an additional sum of Rs.35,000/-. Hence, in view of the above finding, the award passed by the Railway Claims tribunal is enhanced from Rs.80,000/- to Rs.1,15,000/-.

9. In the result, the Civil Miscellaneous Appeal is allowed, by enhancing the quantum of compensation from Rs.80,000/- to Rs.1,15,000/- (Rupees One lakh and fifteen thousand only), payable with interest at 9% per annum, (as ordered by the Railway Claims Tribunal) from the date of petition till date of actual payment. No costs.

10. The respondent/railways shall deposit the enhanced amount of compensation, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the claimant, through ECS as per details furnished in Col.13-A of the claim application.

Sd/-
Assistant Registrar(CS-VIII)

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vv/suk
To

Sub Assistant Registrar

1. The General Manager,
The Union of India Owning
Southern Railway
Chennai.
2. The Railway Claims Tribunal,
Chennai Bench.
3. The Section Officer, VR Section,
High Court, Madras.

+1 cc to Mr.S.Parthasarathy, Advocate, S.R.No.27397

+1 cc to Mr.M.T.Arunan, Advocate, S.R.No.27608

C.M.A.No.1326 of 2013

SSD(CO)
SSM(25/01/2019)