

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.807 of 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellant/applicant, challenging the order, dated 30.06.2014, passed in OAI(U) No.194 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition filed by the appellant/applicant claiming compensation for the injuries sustained by him in an untoward incident of accidental fall from a running train, was dismissed.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant/applicant would contend that the appellant/applicant was a *bona fide* passenger of Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger travelling from Nekkonda to Warangal on 02.02.2007. He was travelling with a valid journey ticket, which was lost in the subject accident. Though there is evidence of A.W.1 and A.W.3 and a specific mention in Ex.A.5-attested copy of Final Report to that effect, the Tribunal erroneously dismissed the claim petition holding that the appellant/applicant failed to establish that he was a *bona fide* passenger of Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger travelling from Nekkonda to Warangal on 02.02.2007 and ultimately prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, the learned Standing Counsel for the respondent-Railways would contend that in view of the inconsistency in the evidence on record, the Tribunal rightly held that the appellant/applicant was not a *bona fide* passenger of Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger on 02.02.2007 and rightly dismissed the claim petition of the appellant-applicant. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. In view of the above rival contentions, the only point that arises for determination in this appeal is whether the appellant/applicant possessed a valid journey ticket to travel from Nekkonda to Warangal by Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger on 02.02.2007?

6. There is specific mention in the evidence of A.W.1 (appellant/applicant) and A.W.3 (a co-passenger and friend of the appellant/applicant) that the appellant/applicant purchased a journey ticket to travel from Nekkonda to Warangal by Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger on 02.02.2007. In Ex.A.5-attested copy of Final Report also, there is a specific mention that the appellant/applicant purchased a journey ticket on 02.02.2007 to travel from Nekkonda to Warangal by Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger. When the appellant/applicant suffered grievous injuries in the subject accident, there is every possibility of losing his journey ticket. Further, when the

appellant/applicant was examined after long lapse of time from the date of the subject accident, there is possibility of small inconsistencies in his evidence. However, both these aspects cannot be fatal to the case of the appellant/applicant. Considering the totality of the facts and circumstances of the case, it is held that the appellant/applicant was a *bona fide* passenger of Train No.323 Bhadrachalam Road to Sirpurkagaznagar Passenger travelling from Nekkonda to Warangal on 02.02.2007. The Tribunal erred in dismissing the claim petition of the appellant/applicant by holding that he is not a *bona fide* passenger of the subject train. This issue is answered in favour of the appellant/applicant and against the respondent-Railways. The other issues framed by the Tribunal are required to be decided by it.

7. Accordingly, the appeal is allowed by setting aside the order, dated 30.06.2014, passed in OAI(U) No.194 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. The matter is remitted to the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, with a direction to restore OAI(U) No.194 of 2008 and answer the remaining issues framed by it in accordance with law.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

16th November, 2018
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