

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.583 of 2015

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the Union of India, represented by the General Manager, South Central Railway, Secunderabad, challenging the order, dated 29.05.2015 passed in O.A.A. No.273 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the Tribunal granted compensation of Rs.4,00,000/- in favour of the respondent-applicant for the injuries sustained by him in an untoward incident of accidental fall from train No.7603 Kacheguda-Yeshwantapur express (hereinafter referred to, as 'the subject train') at Gadwal railway station on 21.1.2008 when he was travelling by the subject train from Gadwal to Kurnool.

2. Heard both sides. Perused the record.

3. For convenience, the parties are hereinafter referred to, as per their array before the Tribunal.

4. The learned counsel for the Railways would contend that the applicant is not a *bona fide* passenger of the subject train on 21.1.2008; that while crossing railway

track, he suffered the injuries; that he gave a statement to that effect to police; that on account of his own negligence and carelessness, he suffered the injuries, and therefore his case falls under exceptions under Section 124A of the Railways Act, 1989; that the Tribunal erroneously held that the applicant was *bona fide* passenger and suffered injuries in an untoward incident of accidental fall from the subject train, and ultimately prayed to set aside the impugned order and dismiss the claim application.

5. On the other hand, the learned counsel for the applicant would contend that the Tribunal is justified in allowing the claim application; that no statement was given by the applicant to police stating that the accident occurred when he was crossing the track and not by fall from the subject train, and no such statement was filed before the Tribunal; that the applicant was a *bona fide* passenger of the subject train and suffered the injuries in an untoward incident of accidental fall from the subject train; that the Tribunal, having analysed entire evidence on record, rightly allowed the claim application, and there is no infirmity to take a different view; and ultimately, prayed to dismiss the appeal.

6. In view of the above submissions, the points that arise for determination in this appeal are as follows:-

- 1) Whether the applicant was a *bona fide* passenger of subject train on 21.01.2008 ?
- 2) Whether the applicant sustained injuries viz. bilateral amputation of lower limbs, in an untoward incident of accidental fall from the subject train on 21.01.2008 in Gadwal railway station ?
- 3) Whether the impugned order passed by the Tribunal is liable to be modified or set aside ?
- 4) To what relief ?

Points 1 to 3:

7. To substantiate the claim of the applicant, the applicant deposed as A.W.1 and marked Ex.A1-photograph of injured; Ex.A2-attested copy of FIR; Ex.A3-attested copy of case diary Part-III; Ex.A4-attested copy of requisition for examination of wounded person; Ex.A5-attested copy of rail concession and Ex.A6-copy of physically handicapped certificate.

On behalf of railways, no oral or documentary evidence was adduced.

8. It is the specific case of the applicant that he sustained injuries leading to bilateral amputation of lower limbs, on 21.1.2008 in an untoward incident of accidental fall from the subject train at Gadwal railway station when he was travelling by the subject train from Gadwal to Kurnool. There is evidence of A.W.1 with regard to his purchase of journey ticket and boarding the subject train

on 21.1.2008 at Gadwal railway station to go to Kurnool. There is also evidence of the applicant that due to high speed and jerks, he fell down from the subject train and consequently his two lower limbs were amputated. Though the appellant-railway contended that there is statement of the applicant that he did not fall from the subject train and that he suffered injuries while crossing railway track, neither such statement was filed nor anybody was examined to substantiate the same. Under Ex.A2-copy of FIR, there is a mention that the applicant was found on the track shouting for help. In Ex.A3-copy of case diary, it is stated that the applicant had fallen from the train and suffered injuries as deposed by him. There is consistency in the evidence of A.W.1 and the police record. Therefore, the Tribunal is justified in holding that the applicant sustained the subject injuries on account of an accidental fall from the subject train.

9. It is the case of the applicant that the journey ticket purchased by him was lost in the accidental fall. In the case on hand, the applicant lost both his lower limbs due to the accidental fall. In such an event, there was every possibility of losing the journey ticket. The Tribunal rightly held that the applicant was a *bona fide* passenger of the subject train and suffered bilateral amputation of both lower limbs in an untoward incident of accidental fall from

the subject train and granted the compensation. There is no infirmity. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed. These points are answered in favour of the respondent-applicant.

10. In the result, the appeal is dismissed, confirming the order, dated 29.05.2015 in O.A.A. No.273 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

28.11.2018
DRK

Dr. SHAMEEM AKTHER, J



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



CIVIL MISCELLANEOUS APPEAL No.583 of 2015

28.11.2018

DRK