

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.272 of 2017

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellant/applicant, challenging the order, dated 12.01.2017, passed in OA II (U) No.19 of 2010 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellant/applicant, the learned Standing Counsel for the respondent-Railways and perused the record.

3. The case of the applicant is that on 08.02.2007, the applicant along with her husband, son and two others boarded Train No.6594 Link Express by purchasing a common reserved journey ticket bearing PNR No.435-3145318 at Bangalore to go to Bidar. On the next day i.e., 09.02.2007, as the husband of applicant required water, she got down from the subject train for fetching water at Raichur Railway Station and while she was re-boarding the train, she had fallen down from the subject train when it suddenly started and due to jerks and jolts, and thereby the applicant sustained grievous injury to her left foot, amputation of little finger of left foot and fracture of waist. Hence, the applicant filed the application under Section 16 of the Act seeking a compensation of Rs.4,00,000/- for the injuries sustained by her. But, the Tribunal awarded a sum of Rs.1,00,000/- only as against the claim of Rs.4,00,000/-.

4. Having dissatisfied with the said award, the applicant preferred the present appeal.

5. The main contention of the appellant/applicant in this appeal is that the Tribunal did not grant adequate compensation for injuries sustained by the applicant, and that the Tribunal ought to have granted at least Rs.1,60,000/-, whereas it granted only Rs.1,00,000/-, which is meagre and not in accordance with the Schedule, and ultimately prayed to enhance the compensation to Rs.1,60,000/-.

6. On the other hand, the learned Standing Counsel for the respondent-railways would contend that no Medical Officer was examined by the applicant to prove the injuries and that the Tribunal justified in granting the compensation of Rs.1,00,000/-, and ultimately, prayed to dismiss the appeal.

7. In view of the above submissions made by both sides, the points that arise for determination in this appeal are as follows:

1. Whether the appellant/applicant is entitled to enhancement of compensation? If so, to what amount?
2. To what result?

8. POINT No.1:- To substantiate the claim of the appellant/applicant, she herself was examined as AW.1 and got marked Ex.A.1-attested copy of letter from Medical Officer to S.I., MYPS Police Station, Raichur and message from SS, Raichur to SI/GRP & RPF/Raichur, dated 09.02.2007, Ex.A.2-attested copy of statement of applicant, Ex.A.3-attested copy of letter to Medical Officer, dated 09.02.2007, Ex.A.4-original ticket, Ex.A.5-discharge

summary, dated 19.02.2007, and Ex.A.6-discharge summary, dated 29.03.2007. On behalf of the respondent – Railways, none were examined, but, however, Ex.R.1-Divisional Railway Manager's Report was marked.

9. As per the evidence and the documents placed before the Tribunal, the appellant-applicant suffered the following injuries:

- i) Grievous injury to her left foot;
- ii) Amputation of little finger of left foot; and
- iii) Fracture of Waist.

Admittedly, no doctor was examined to prove the aforesaid injuries and the consequence arose there-from. Only documents connected thereto are marked as Exs.A-5 and 6, which are discharge summaries, dated 19.02.2007 and 29.03.2007 respectively, issued by Balanku Orthopedics Maternity & Multi Speciality Hospital, Raichur. Mere filing of the documents is not a proof. Documents are required to be proved in accordance with the procedure established under Law. Such evidence is not available on record in the present case. The Tribunal justified in granting the award of Rs.1,00,000/- towards compensation. There is no infirmity in the impugned order. There is nothing to take a different view. Hence, the appeal is devoid of merit and is liable to be dismissed.

Point No.2:-

10. In the result, the appeal is dismissed, confirming the order, dated 12.01.2017, passed in OA II (U) No.19 of 2010, by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

December 06, 2018
Mgr

