

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

C.M.A.No.41 of 2010

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellant-Union of India represented by the General Manager, South Central Railways, Secunderabad, challenging the order, dated 06.08.2009, passed in O.A.A.No.373 of 2003 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity).

2. Heard the learned Standing Counsel for the appellant-Railways, the learned counsel for the respondents-claimants and perused the record.

3. Learned counsel for the appellant-Railways would contend that the injured-applicant was not a bona fide passenger. He was responsible for the injuries and amputation. There is ample evidence to substantiate the same. The Tribunal erroneously held that the applicant was a bona fide passenger and suffered amputation to both his legs in an untoward incident of railway accident caused by train No.471 travelling from Vijayawada to Tuni. The finding of the Tribunal is erroneous and ultimately, prayed to set aside the order.

4. On the other hand, the learned counsel for the respondents-applicants would contend that the injured-applicant was a bona fide passenger. When he was trying to board train No.471, due to sudden jerk of the train, he fell down and suffered amputation of

both the legs. The Tribunal rightly appreciated the entire material on record and granted compensation. There is no infirmity in the impugned order and ultimately, prayed to dismiss the appeal.

5. While dealing with the subject matter of the claim petition, the Tribunal was pleased to frame the following issues:

1. Whether the applicant was a bona fide passenger of train No.471 passenger, travelling from Vijayawada to Tuni on 31.10.2003?
2. Whether the applicant sustained injuries as a result of an untoward incident of accidental fall from the said train?
3. Whether the applicant is entitled to claim compensation of Rs.4 lakhs?
4. To what relief?

6. The Tribunal answered all the issues in favour of the injured-applicant. As per the evidence of P.W.1, who is the injured in this case is suffered amputation due to sudden jerk given by train No.471 when he was trying to get into the said train. There is also evidence to show that the injured was a bona fide passenger in train No.471. When he made an attempt to board the train at Guntur to go to Tuni, due to sudden start and jerk of train bearing No.471, he fell down and suffered grievous injuries and his two legs were amputated. The same is also supported by the documentary evidence. Under these circumstances, there is nothing to take a different view. All the contentions raised on behalf of the appellant-railways have no merits. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed.

Miscellaneous Petitions pending, if any, in this appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 23.10.2018
ssp

