

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.1312 of 2011

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 27.07.2011, passed in O.A.A.No.216 of 2006 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition filed by the appellant/applicant claiming compensation of Rs.1,00,000/- for the injuries sustained by him in an alleged untoward incident, was dismissed.

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

3. The learned counsel for the appellant/applicant would submit that while the appellant/applicant was travelling in Train No.238 DMU from Pendurthi to Bobbili on 25.05.2005, he was hit by an iron rod due to which, he suffered fracture to his tibia. To substantiate the same, the appellant/applicant filed medical record and the statements made by him during the course of enquiry. The Tribunal, without considering the evidence on record, erroneously dismissed the claim petition holding that the appellant/applicant is not entitled for compensation and ultimately prayed to allow the appeal by setting aside the order under challenge and grant compensation as claimed.

4. On the other hand, the learned Standing Counsel for the respondent-Railways would contend that there is no mention anywhere in the medical record filed by the appellant/applicant that

he suffered injuries in the alleged untoward incident. Further, there is no possibility of a person being hit by an iron rod while travelling in a train. A story is concocted by the appellant/applicant in order to claim compensation from the Railways. The Tribunal, after analysing the entire evidence on record, rightly dismissed the claim petition. There is no infirmity in the order under challenge and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. In view of the above rival contentions, the points that arise for determination in this appeal are as follows:

1. Whether the appellant/applicant was hit by an iron rod while he was travelling by Train No.238 DMU from Pendurthi to Bobbili on 25.05.2005?
2. Whether the order under challenge is liable to be set aside/ confirmed?
3. To what result?

Point Nos.1 to 3:

6. Admittedly, the appellant/applicant had filed medical chits, case sheet etc., in support of his claim, which are marked as Exs.A.3 to A.5 in the claim petition. There is no mention anywhere in the medical record with regard to the appellant/applicant stating to the doctor who treated him that he suffered injury due to hit by an iron rod while he was travelling by Train No.238 DMU from Pendurthi to Bobbili on 25.05.2005. On Ex.A.3-Out Patient Ticket, it is written as 'MLC' with red ink. That endorsement can be made by any person. A perusal of Ex.A.3 would make it clear that it is not a Medico Legal Certificate. The appellant/applicant made a statement before the police in the course of his enquiry that he was hit by an iron rod while he was travelling by Train No.238 DMU from Pendurthi to Bobbili on

25.05.2005. Except this self-serving statement of the appellant/applicant, none was examined on his behalf to demonstrate/establish the same. Moreover, when the appellant/applicant is said to be travelling in a train, there is no possibility of a hit by an iron rod. Further, the Tribunal recorded a specific finding that the ticket purchased by the appellant/applicant may or may not pertain to the travel in the subject train on the specified date. As rightly held by the Tribunal, mere mentioning that an iron rod from outside the train hit the appellant/applicant would not constitute an 'untoward incident'. A perusal of the entire evidence on record makes it clear that a false application is made by the appellant/applicant in order to claim compensation from the Railways. The Tribunal, after analysing the entire evidence on record in proper perspective, rightly declined to grant compensation to the appellant/applicant. There is nothing to take a different view. There is no infirmity in the order under challenge. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed, confirming the order, dated 27.07.2011, passed in O.A.A.No.216 of 2006 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.

30th November, 2018
Bvv

Dr. SHAMEEM AKTHER, J