

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.162 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 22.06.2012, passed in O.A.A.No.509 of 2005 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim petition of the appellant-claimant claiming a compensation of Rs.4,00,000/- for amputation of his left hand upto the shoulder in an untoward accident fall from a running train on 22.12.2004, was dismissed.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant-applicant would contend that the appellant holding the journey ticket for travelling from Kazipet to Ramagundam, boarded Singareni Passenger train at Kazipet station and due to the jerks, he accidentally fallen down from the running train at Kazipet railway station, as a result of which, his left hand went into the running wheels of the train and was crushed; the Tribunal without considering the evidence on record, erroneously dismissed the claim of the appellant; and ultimately, prayed to allow the appeal by setting aside the dismissal order passed by the Tribunal and grant compensation in favour of the appellant as prayed for.

4. On the other hand, the learned counsel for the respondent-Railways would contend that the Tribunal considering the evidence adduced by both parties, rightly dismissed the claim of the appellant holding that in the absence of production of relevant medical records and in the absence of examination of the doctor, it is not possible to come to a conclusion that the appellant sustained injuries in an untoward accidental fall of the appellant from a train; there are no circumstances to interfere with the finding of the Tribunal; and ultimately, prayed to dismiss the appeal.

5. In view of the above submissions, the point that arises for determination in this appeal is, whether the impugned order dated 22.06.2012 passed by the Tribunal is liable to be set aside?

Point:

6. The Tribunal while dealing with the matter, was pleased to frame the following issues for determination and discussed the oral and documentary evidence at length.

- 1) Whether the applicant was a bonafide passenger of train No.Singareni Passenger, travelling from Kazipet to Ramagundam on 22.12.2004?
- 2) Whether the applicant sustained injuries as a result of an untoward incident of accidental fall from the train?
- 3) Whether the applicant is entitled to claim compensation as prayed for?
- 4) To what relief?

7. To substantiate the claim of the appellant-applicant, the appellant himself deposed as A.W.1 and got examined Smt. K.Shobha Rani as A.W.2 and got marked Ex.A.1-certificate issued by GRP Outpost, Kazipet, Ex.A.2-discharge card issued from MGM Hospital, Warangal and Ex.A.3-discharge card issued from MGM Hospital, Warangal Ortho III Unit. On behalf of the respondent-Railways, R.Ws.1 to 4 were examined and Ex.R.1-Guard's Memo book copy, Ex.R.2-DRM's report and Ex.R.3-Letter to CCM/SC.

8. In the impugned order, the Tribunal elaborately discussed about the alleged accidental fall of the applicant from a train and the amputation of his left hand upto the shoulder and also examined the medical record filed by the applicant and recorded a finding that Exs.A.2 and A.3 does not contain any signature of the doctor and seal of the hospital and it also concluded that under those circumstances, it was not possible to hold that the applicant has sustained injuries as contended. Ultimately, the Tribunal was pleased to dismiss the claim application, since it is a beneficial legislation, though the applicant has filed Exs.A.2 and A.3, which discloses that the doctor concerned has not subscribed his full signature and there is no seal of the hospital on those documents. The applicant contended that he suffered amputation of left hand below shoulder in an untoward accidental fall from train Singareni passenger on 22.12.2004 while travelling from Kazipet to Ramagundam. The applicant is to be given an opportunity to place proper evidence and record to answer all the issues.

Under these circumstances the impugned order dated 22.06.2012 passed by the Tribunal is liable to be set aside and the matter can be remanded to the Tribunal for disposal in accordance with law.

9. In the result, the appeal is allowed, setting aside the order, dated 22.06.2012, passed in O.A.A.No.509 of 2005 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, and the matter is remanded to the Tribunal for disposal in accordance with law, enabling the applicant to adduce oral and documentary evidence. In such event, the respondent-Railways shall also be given similar opportunity. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

29th October, 2018
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Dr. SHAMEEM AKTHER, J

