

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.795 of 2016

JUDGMENT:

This appeal is filed under Section 23 of Railway Claims Tribunal Act assailing the order dated 29.08.2016 passed in O.A.(IIU) No.543 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, 'the Tribunal')

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the appellant filed O.A.(IIU) No.543 of 2008, under Section 16 of Railway Claims Tribunal Act, claiming compensation of Rs.4,00,000/- for the injuries sustained by him by falling down from the train.

4. On behalf of the appellant, AW.1 was examined and Exs.A.1 to A.3 were marked. On behalf of the respondent, no oral evidence was adduced and Ex.R.1 was marked.

5. Basing on the oral and documentary evidence available on record, the Tribunal dismissed the application on the ground that the appellant did not produce the medical record. Hence, the appeal.

6. At the time of arguments, learned counsel for the appellant submitted that the appellant filed I.A.No.645 of 2013 to call for the records from the concerned Government Hospital. The Tribunal allowed the said application. For one reason or other, the concerned Hospital Authorities have not produced the medical record. He further submitted that the appellant is having the medical record with him.

7. If the appeal is dismissed, it may cause untold hardship to the appellant, whose legs were amputated. Even if one more opportunity is given to the appellant, the same may not cause any prejudice to the respondent. This Court is not in a position to dispose of the appeal without the medical record.

8. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to remand the matter to the Tribunal in the interest of justice.

9. In the result, the Civil Miscellaneous Appeal is allowed, setting aside the order dated 29.08.2016 passed in O.A.(IIU) No.543 of 2008 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, and remanding the matter. The Tribunal is hereby directed to dispose of O.A.(IIU) No.543 of 2008, as expeditiously as possible, after affording a reasonable opportunity to the appellant to produce the medical record. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 05.09.2018
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