

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.213 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 30.06.2009, passed in O.A.A.No.318 of 2003 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the Tribunal dismissed the application of the appellants claiming a compensation of Rs.2,00,000/- for the injuries sustained by him in an untoward accidental fall from train No.165 Push-Pull train while travelling from Secunderabad to Aler on 02.04.2003.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant-applicant would contend that the applicant-injured by mistake boarded wrong train, and having come to know the same after enquiry from the co-passenger, when he was getting down the train, accidentally fallen down and suffered amputation of his left leg; the Tribunal erroneously held that the injuries suffered by the applicant were self-inflicted injuries and also recorded that there is some difference of the signatures of the applicant on the application form and in the evidence recorded before the Tribunal; there is a doubt with regard to the person who attended before the Tribunal to give evidence; the Tribunal erroneously dismissed the claim application without considering

the evidence on record; and ultimately, prayed to set aside the impugned order and grant compensation in favour of the appellant-applicant by allowing the appeal.

4. On the other hand, the learned counsel for the respondent-Railways would contend that the applicant-injured was responsible for his own fall since he boarded the wrong train and got down when the train started; the Tribunal rightly dismissed the claim application of the applicant holding that the injuries suffered by the applicant were self-inflicted injuries; there is no infirmity in the impugned order; and ultimately, prayed to dismiss the appeal.

5. The material on record reveals that the signature of the applicant on the claim application is in Telugu. When the applicant deposed before the Tribunal, he subscribed his signature in English. The Tribunal entertained a doubt with regard to the genuineness of the applicant. Merely because the applicant had signed in different languages, his identity cannot be denied. There is no mistake on the part of the applicant. Having analysed the entire evidence on record, the Tribunal held that the applicant made an attempt to get down from a moving train and invited unnecessary risk and it tantamount to self-inflicted injuries and ultimately dismissed the claim application. As per the material on record, there is no error apparent on the part of the applicant to invite unnecessary risk. The applicant had suffered amputation of his leg. Though it is contended that the applicant had suffered amputation of his leg, he has not placed legally acceptable evidence on record to assess the injury

suffered and the amputation and to award compensation. Therefore, an opportunity is to be given to the applicant to adduce evidence to prove the amputation suffered by him and also relevant all other factors to claim compensation under the Act. Under these circumstances, the impugned order is liable to be set aside and the matter is remanded to the Tribunal for disposal afresh in accordance with law.

6. In the result, the appeal is allowed, setting aside the impugned order, dated 30.06.2009, passed in O.A.A. No.318 of 2009 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, and the matter is remanded to the Tribunal to answer all the issues afresh, giving opportunity to both parties to adduce evidence, and thereafter, dispose of the matter in accordance with law, preferably, within a period of six months from the date of receipt of copy of this judgment. Pending Miscellaneous Petitions, if any, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

26th December, 2018

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