

**THE HON'BLE DR.JUSTICE SHAMEEM AKTHER**

**CIVIL MISCELLANEOUS APPEAL No.535 of 2016**

**JUDGMENT:**

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short 'Act'), is filed by the appellant - applicant challenging the order, dated 06.07.2015, passed in O.A.A. No.135 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short 'Tribunal'), whereby, the claim petition filed by the appellant - applicant for a compensation of Rs.4,00,000/- for the injuries sustained in an alleged untoward incident of accidental fall from a running train, was dismissed.

2. Heard Sri Pottigari Sridhar Reddy, learned counsel for the appellant and Sri T.S. Venkata Ramana, learned standing counsel for Railways appearing for the respondent.

3. Perused the evidence on record, both oral and documentary.

4. The appellant herein is applicant in O.A.A. No.135 of 2007 before the Tribunal, while respondent - Railways is arrayed as such. For the sake of convenience, the parties herein are referred to as they were arrayed in the foresaid OAA before the Tribunal.

5. The learned counsel for the applicant would contend that the applicant had boarded Train No.405 Secunderabad - Guntur Passenger at Secunderabad Railway Station to go to Mahabubnagar after purchasing II Class Journey ticket on 29.11.2006 and when the

train was about to reach Mahabubnagar Railway Station at about 8.30 P.M., the applicant suddenly slipped and fell down from the moving train at about 8.30 P.M. on that day, and suffered injuries to left hand and it was amputated below the shoulder in Osmania General Hospital, Hyderabad. There is oral and documentary evidence to substantiate the same. Journey ticket was lost in the accidental fall. The Tribunal did believe the evidence of CWs.2 and 3 and Ex.C.4 (Ex.C.1) - case sheet and erroneously held that the applicant was not a *bona fide* passenger of subject train and that he did not suffer injuries in an untoward incident of accidental fall, and ultimately prayed to set aside the impugned order and grant compensation as prayed for by allowing the appeal.

6. On the other hand, the learned standing counsel for Railways would submit that there is specific statement of the applicant that he was beaten by some persons when he was in drunken state; that the same was recorded by the doctors working in Osmania General Hospital. CW.3 had clearly and categorically stated the same. In Ex.C.4 (Ex.C.1), the beatings are mentioned. The Tribunal rightly considered the said evidence and dismissed the application, and ultimately prayed to dismiss the appeal.

7. In view of the above submissions made by both sides, the following points that arise for determination in this appeal:

- i. Whether the applicant was a *bona fide* passenger of Train No.405 Secunderabad - Guntur Passenger, and was travelling from Secunderabad to Mahabubnagar on 29.11.2006?
- ii. Whether the applicant had suffered injuries in an untoward incident of accidental fall from the said Train on 29.11.2006 due to jerks and jolts of the subject train?
- iii. Whether the impugned order is liable to be set aside?
- iv. To what result?

8. To substantiate the claim, the applicant himself deposed as AW.1 and got marked Exs.A.1-attested copy of first information report, Ex.A.2-attested copy of statement of applicant, Ex.A.3-attested copy of statement of wife of the applicant, Ex.A.4-discharge summary and Ex.A.5-photostat copy of physically handicapped certificated. On behalf of respondent - Railways, RWs.1 and 2 were examined and Ex.R.1- certified copy of message of Station Master and Ex.R.2- Report of Divisional Railway Manager were got marked. CWs.1 to 3 were examined as Court Witnesses and Ex.C.1-case sheet of Osmania General Hospital, Ex.C.2-original C.D. file, Ex.C.3-case sheet of Government Hospital, Mahabubnagar and Ex.C.4-case sheet of Osmania General Hospital were got marked.

**Point Nos.(i) and (ii):-**

9. As already stated above, to substantiate the claim, the applicant himself deposed as AW.1. There was no third party present

to substantiate the accidental fall and purchase of ticket by the applicant and no journey ticket was placed on record. It is contended that the said journey ticket was lost in the incident of accidental fall. In D.R.M. Report (Ex.R.2), information to the police with regard to the finding of the applicant in a railway track was not prepared basing on the statement of direct witnesses. There was no independent person to substantiate the travel undertaken by the applicant by Train No.405 on 29.11.2006. There was also no witness to substantiate the accidental fall and loss of journey ticket.

i) CWs.2 and 3 are the Medical Officers, who worked at District Government Hospital, Mahabubnagar and Osmania General Hospital, Hyderabad, respectively. Ex.C.3-case sheet of the applicant pertains to the treatment taken by the applicant at Government Hospital, Mahabubnagar. There is no mention therein of incident of accidental fall from any of the trains. The evidence of CW.3, the doctor, reveals that the applicant presented himself in the casualty ward of Osmania General Hospital and stated that he was beaten by some persons ten days back; for that he took the treatment from quack doctor. In the course of treatment, his left-hand was amputated on 17.12.2006. CW.3 has clearly and categorically stated that the patient narrated the case history. Ex.C.4 is the case sheet of the applicant, wherein Ex.C1, endorsement is marked which shows that the applicant had suffered injuries at the hands of somebody. In Osmania General Hospital records, there is no mention anywhere that the

applicant had fallen from train No.405 on 29.11.2006. There are no reasons for CW.3 to make a false statement against the applicant. Had the applicant fallen from running train, he would have stated the same when he was admitted in Government Hospital, Mahabubnagar and it would have been incorporated in Ex.C.3-case sheet. It appears from the record that subsequently the applicant had changed his version and started claiming that he had accidentally fallen from train No.405 on 29.11.2006. Ex.R.2-DRM report and other information gathered by the Railway Police is not based on the statements of direct witnesses. Therefore, no credibility can be given to them. The evidence of RWs.1 and 2 and the medical record marked as Exs.C.1 to C.4 falsifies the case of the applicant. The Tribunal had elaborately dealt with all the contentions raised herein, which do not merit consideration. In the said circumstances, it cannot be said that the impugned order suffer from any infirmity. Accordingly, these points are answered against the applicant and in favour of the respondent - Railways.

**Point No.(iii):-**

10. The Tribunal had elaborately dealt with the contentions and the evidence on record and rightly reached the conclusion and dismissed the claim petition. There is no infirmity in the impugned order. There is nothing to take a different view. Hence, the appeal is devoid of merit and is liable to be dismissed.

**Point No.(iv):-**

11. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the order, dated 06.07.2015, passed in O.A.A. No.135 of 2007 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous applications, if any, pending in the present appeal, stand closed.

**December 19, 2018**  
Mgr

**Dr. SHAMEEM AKTHER, J**

