

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.368 of 2015

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 07.03.2014, passed in OAA No.208 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 injuries he sustained in an alleged untoward incident of accidental fall from a running train, was dismissed.

2. Heard Sri R.M.K. Kishore, learned counsel for the appellant, and Mrs. K. Aruna, learned standing counsel for Railways appearing for the respondent.

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

4. The appellant herein is applicant in OAA No.208 of 2007 before the Tribunal, while respondent - Railways is arrayed as such.

5. For the sake of convenience, the parties herein are referred to as they were arrayed in the foresaid OAA before the Tribunal.

6. The learned counsel for the applicant would contend that the applicant wanted to travel from Yakatpura/Kacheguda to Sithaphalmandi by boarding MMTS Train on 11.01.2007, but by

mistake boarded Nizamuddin Express, and on the way, he had accidentally fallen from the said train at Platform No.1 of Vidyanagar Railway Station at about 11.00 A.M., and suffered amputation of left hand below shoulder, and ultimately prayed to allow the appeal by awarding compensation.

7. On the other hand, the learned standing counsel for Railways would submit that on 11.01.2007, the applicant had boarded Karnataka Sampark Kranti Express, which was waiting to pass. The applicant had not possessed any valid journey ticket. The Tribunal rightly declined to grant compensation. There is no infirmity in the order passed by the Tribunal, and ultimately prayed to dismiss the appeal.

8. The specific case and evidence of the applicant is that he had purchased ticket No.51790256 to undertake journey by MMTS from Yakatpura/Kacheguda to Sithaphalmandi. The fact remains is that he made an attempt to get in train No.7021 Sampark Kranti Express on 11.01.2007, and while boarding, he had accidentally fallen from the said train, suffered amputation as contended by him.

9. The point that arises for consideration is:

Whether the applicant was a *bona fide* passenger of the subject train, suffered injuries in an untoward incident of accidental fall from the said train?

10. To substantiate the claim of the applicant, he was examined as AW.1 and got examined AW.2 and got marked Ex.A.1-first information report, Ex.A.2-copy of letter by Hospital to Government Railway Police, Ex.A.3-copy of discharge card, Ex.A.4-copy of accident register, Ex.A.5-copy of journey ticket, and Ex.A.6-case sheet. On behalf of the respondent-Railways, no evidence either oral or documentary was let in.

Point:

11. The Tribunal while dealing with the subject matter had elaborately discussed with regard to identification of the train. The outlook of Super Fast Mail/Express Trains is different from MMTS trains. It is also the case of the applicant that he gets into the trains every day at 9.00 A.M. to go to the place of his employment. Therefore, there is no difficulty for him to identify the MMTS trains and board therein. Boarding Sampark Kranti Express Train No.7021 on 11.01.2007 is a deliberate attempt on the part of the applicant without there-being any valid journey ticket. The journey ticket meant to travel by MMTS train from Yakatpura/Kacheguda to Sitaphalmandi cannot be held to be a valid journey ticket to undertake journey through Train No.7021 Sampark Kranti Express on 11.01.2007. This aspect was elaborately dealt with by the Tribunal. The finding given by the Tribunal is that the applicant was not *bona fide* passenger. The finding of the Tribunal is based on the evidence on record, and also in consonance with the enabling provision under

the Railways Act. There is no infirmity in the impugned order. There is nothing to take a different view. Therefore, the appeal is devoid of merit. Accordingly, this point is answered against the applicant and in favour of the respondent - Railways.

12. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the order, dated 07.03.2014, passed in OAA No.208 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 10, 2018
Mgr

Dr. SHAMEEM AKTHER, J

