

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.228 of 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellant/applicant, challenging the order, dated 16.08.2011, passed in O.A.A.No.118 of 2007, by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellant/applicant, the learned Standing Counsel for the respondent-Railways and perused the record.

3. The learned counsel for the appellant/applicant would contend that though the appellant/applicant suffered amputation of his right leg below the knee leaving a stump of more than five inches in the alleged untoward incident, the Tribunal granted a meagre compensation of Rs.2,00,000/-. The Tribunal also erred in not granting pendente lite interest @ 6% per annum from the date of presentation of the claim petition before the Tribunal till the date of Award and ultimately prayed to enhance the compensation granted by the Tribunal from Rs.2,00,000/- to Rs.4,00,000/- and grant pendente lite interest @ 6% per annum from the date of presentation of claim petition before the Tribunal till the date of Award.

4. On the other hand, the learned Standing Counsel for the respondent-Railways would contend that the appellant/applicant is not entitled for pendente lite interest @ 6% per annum from date of presentation of claim petition before the Tribunal till the date of the

Award. The Tribunal rightly granted a compensation of Rs.2,00,000/- and interest @ 6% per annum on the said amount of compensation from the date of the Award till the date of payment. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. As far as the enhancement of compensation from Rs.2,00,000/- to Rs.4,00,000/- is concerned, the Tribunal, after taking all the relevant factors into consideration and after analysing the entire evidence on record in proper perspective, granted a compensation of Rs.2,00,000/- in favour of the appellant/applicant. There is justification on the part of the Tribunal in assessing and awarding the said compensation. The appeal does not merit consideration for enhancement of compensation. As seen from the records, though the original application was filed before the Tribunal on 19.01.2007, the affidavit in lieu of examination in chief of A.W.1 (the appellant/applicant) was filed before the Tribunal on 03.08.2009 and he was subjected to cross-examination on 03.08.2009 itself. Thus, there was delay on the part of the appellant/applicant in filing his affidavit in lieu of examination in chief. Under these circumstances, this Court is inclined to grant pendente lite interest @ 6% per annum on the amount granted as compensation by the Tribunal (Rs.2,00,000/-), from the date of filing of the affidavit in lieu of examination in chief of A.W.1 (appellant/applicant), i.e., 03.08.2009 till the date of the Award, i.e., 16.08.2011.

6. In the result, the appeal is allowed in part, granting interest @ 6% per annum on the amount granted as compensation by the

Tribunal (Rs.2,00,000/-), from the date of filing of the affidavit in lieu of examination in chief of A.W.1 (appellant/applicant), i.e., 03.08.2009 till the date of the Award, i.e., 16.08.2011.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

20th December, 2018
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