

HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.1226 of 2008

JUDGMENT:

This appeal is filed by the appellant/applicant questioning the order passed in O.A.A.No.202 of 1999 dt.15-06-2001 of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. Brief facts of the case are that on 01-06-1999 when the applicant was traveling in a train from Visakhapatnam to Eluru and when it reached Dendulur Railway Station and when he was coming from the toilet, he slipped and accidentally fell down from the said running train due to speed and jerks of the train, and as a result, he sustained grievous injuries and his right hand was cut and separated. Hence, he filed the application claiming compensation of Rs.3.60 lakhs towards the injuries sustained by him.

3. Respondent-railways filed a Written Statement denying the allegations and contended that the amount claimed by the claimant is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal held that applicant was not holding a valid ticket and hence he is not a *bona fide* passenger and accordingly, dismissed

the application. Aggrieved by the same, the applicant filed this appeal under Section 23 of the Railway Claims Tribunal Act.

5. Heard Smt. Hima Bindu, learned counsel for the appellant/claimant and Sri T.S.Venkata Ramana, learned Standing Counsel for the respondent-Railways.

6. Learned counsel for the appellant contends that the Tribunal erred in dismissing the claim petition and that the Tribunal without properly appreciating the evidence on record came to the conclusion and held that the applicant is not a *bona fide* passenger. Therefore, she prayed to allow the appeal and grant the compensation with interest from the date of filing of the petition.

7. Learned Standing Counsel for the respondent-Railways vehemently contends that the appellant himself came to the Court after lapse of eight years and therefore he is not entitled to claim any interest for the total period including delay period and that he supported the order of the Tribunal and hence, prayed to dismiss the appeal.

8. Admittedly, the claimant was a passenger in train and was holding a valid ticket, so he was not a ticket-less traveller. When the claimant was traveling with a ticket, he cannot be deprived of his right under the provisions envisaged under the Railways Act in claiming compensation. In the event of passenger was traveling without ticket, the penalties under the provisions of the Act would

attract for the said violation. But insofar as the claimant benefit is concerned, he cannot be deprived of his right of claiming compensation on the ground that he is not a child and he is traveling under a child ticket. No evidence has been adduced by Railways in support of their contention that the claimant is not a *bona fide* passenger and is not eligible to claim compensation.

9. Insofar as awarding of compensation is concerned, as on the date of accident for the amputation of hand, as per the schedule, a sum of Rs.3,60,000/- is fixed towards compensation. Subsequently, during 2016, there is an amendment enhancing the same.

10. In the present case, the accident pertains to 21-05-1999 and the judgment is passed on 15-06-2001 and the present appeal is preferred in the year 2008, after lapse of seven years. But for the laches committed on the part of the appellant in approaching the Court with a delay of seven years, the Railways cannot be put to any hardship by awarding more compensation for which the claimant is entitled to as on the date of the accident or prior to the amendment of the schedule.

11. Hence, after hearing both sides, this Court feels that awarding of Rs.6,00,000/- lakhs in favour of the appellant would meet the ends of justice.

12. Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the order, dated 15-06-2001, passed in O.A.A.No.202 of

1999 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. Consequently, O.A.A.No.202 of 1999 stands allowed. The appellant is awarded a compensation of Rs.6,00,000/- (Rupees Six Lakhs only). The respondent/Railways shall pay the compensation awarded within three (3) months from the date of receipt of a copy of this order, failing which, interest at the rate of 6% per annum shall be payable on the compensation amount from the date of this order till the date of realization. On deposit, the appellant is permitted to withdraw the said amount. There shall be no order as to costs.

13. Miscellaneous petitions pending, if any, shall stand dismissed.

Date: 11-11-2019
kvr

T.AMARNATH GOUD, J