

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.540 OF 2010

JUDGMENT:

This appeal is filed by the appellant-Railways aggrieved by the Order, dated 12.03.2010, passed in O.A.A.No.51 of 2007 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the O.A.A.

3. The brief facts of the case are that on 25.02.2007 with an intention to go to Ballarsha to attend marriage of his relative, the applicant came to Ramagundam Railway Station and learnt that Train No.2625 Kerala Express would be going to Ballarshah and that the said train has halt at Ballarshah, but he has to purchase the ticket upto Nagpur. As such, the applicant purchased a ticket from Ramagundam to Nagpur and boarded the general compartment of Kerala Express. While travelling, due to heavy rush and pushing inside the train, he accidentally fell down from the running train in the middle of the way, thereafter he was shifted to Dr. Madhu's Private Hospital at Sirpurkagaznagar and admitted as inpatient. Due to the said accident, his left hand was amputated above elbow and sustained injuries on left leg, forehead, back and other parts of the body and that the clothes, money and the ticket went along with the train and he lost the same. Hence, the applicant filed

the said O.A.A. claiming compensation of Rs.4,00,000/- for the injuries sustained by him in the said accident.

4. The respondent/Railways filed written statement denying the averments made in the application and prayed to dismiss the same.

5. After considering the oral evidence of A.W.1, who is the applicant, and the documentary evidence of Exs.A-1 to A-4, the Tribunal awarded compensation of Rs.3,20,000/- directing the Railways to deposit the amount within a period of 2 months from the date of order, with interest @ 6% per annum from the date of the application to the date of order and 9% per annum from the date of the order till the amount is realised.

6. Heard Sri Prabhakar Peri, learned standing counsel for the appellant/Railways and Sri S.Chandra Sekhar, learned counsel for the respondent/applicant. Perused the material record.

7. The applicant filed I.A.No.1 of 2018 seeking to permit him for amending the Column No.16 of the claim petition i.e., O.A.A.No.51 of 2007, on the file of the Railway Claims Tribunal, Bench at Secunderabad, Secunderabad, claiming compensation of Rs.7,20,000/- with interest instead of Rs.4,00,000/-, by stating that as per the Amended Railway Accidents & Untoward Incidents (Compensation) Amendment Rules 2016, he is entitled for Rs.6,40,000/- and incurred Rs.80,000/- towards medical

expenses. The said enhancement application was allowed by the Tribunal.

8. Sri Prabhakar Peri, learned standing counsel appearing for the appellant-Railways, contended that the issue of untoward accident is not denied but the issue which has to be decided is whether the applicant is a *bona fide* passenger or not, and further contended that the applicant is not a *bona fide* passenger as no ticket was found on the person of the injured; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

9. On the other hand, Sri S.Chankdra Sekhar, learned counsel appearing for the respondent/applicant contended that the injured was a *bona fide* passenger travelling in the passenger train with a valid ticket, but the same was lost in the accident; that he was injured in the untoward incident and his left hand was amputated above elbow and sustained injuries on left leg, forehead, back and other parts of the body; that therefore, the Tribunal rightly granted compensation and hence, there are no grounds to interfere with the impugned order.

10. Section 124-A of the Act is in the nature of 'no fault liability'. For claiming compensation under the Act, the applicants need not prove the negligence on the part of Railways. If the applicant proves that he sustained injuries in

an untoward incident with a valid ticket, then he is entitled for compensation.

11. In the absence of filing of any proof of travel i.e., the ticket, it cannot be considered that the applicant is not a *bona fide* passenger. Further, the averment that the applicant has to go to Ballarshah to attend a wedding of his relative by purchasing the ticket upto Nagpur cannot be accepted, that too when there is no stop at Ballarshah. Admittedly, in the chief examination, the applicant has categorically stated that in order to attend the wedding, he was travelling from Ramagundam to Ballarshah by Train No.2625 Kerala Express by purchasing a ticket, which was issued upto Nagpur and while he was standing at the door besides the sink, as the compartment was crowd, there was push by co-passengers and due to the jerks, he has fallen down. He lost clothes, bag and other belongings including the ticket. It is to be noted that when once he fell down from the train and his ticket was there along with his other belongings in the bag, so the question of possessing the ticket along with the applicant do not arise and he cannot be treated as a ticketless traveller. To rebut the evidence in the chief examination, the applicant has categorically stated about the ticket and also in the cross-examination, it is elicited that he lost his belongings in the train as he fell down from the train. The Railways have not chosen to elicit any evidence in their favour. In the cross-examination, no suggestions were made to that effect to deny the compensation.

Further, the Railways have not chosen to place on record any documentary evidence and also no person has been examined on behalf of the Railways to enter into the witness box in support of their case. In the absence of any evidence by the Railways before the Tribunal, the Railways cannot make their case in the appeal. Hence, there are no grounds to interfere with the impugned order passed by the Tribunal.

12. With regard to enhancement of compensation is concerned, the same cannot be considered since the appeal filed by the Railways, the applicant cannot seek any further relief. The applicant ought to have preferred cross-objections or ought to have filed an appeal seeking enhancement of the compensation.

13. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order, dated 12.03.2010 in O.A.A.No.51 of 2007 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad. There shall be no order as to costs.

Miscellaneous petitions pending in this appeal, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20th December, 2019

KL