

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.Nos.294 OF 2008 AND 758 OF 2009

COMMON JUDGMENT:

Since both the appeals arise out of a common order, they are being disposed of by the common Judgment.

These Civil Miscellaneous Appeals, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act'), are directed against the order, dated 12.09.2007, in O.A.A.No.434 of 2006, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. The appellant in C.M.A.No.294 of 2008 is the respondent, and the appellant in the C.M.A.No.758 of 2009 is the applicant, before the Tribunal. For better appreciation of facts, the parties hereinafter are referred to as they are arrayed before the Tribunal.

3. The brief facts are that on 28/29.10.2005, while the applicant was travelling by Delta Fast Passenger No.415, it was met with accident at Valigonda. In the said accident, the applicant sustained blunt injury on his chest and also sustained injuries to his feet and legs. The applicant filed the above OAA seeking compensation.

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

5. The Tribunal, on consideration of both oral and documentary evidence available on record, awarded compensation of Rs.1,80,000/- directing the Railways to deposit the said amount within a period of 60 days from the date of Order, failing which, it shall carry interest @ 6% per annum till the date of realization.

6. Learned Standing Counsel appearing for the railways contended that the applicant has not sustained any injuries in the accident; that granting of compensation by the Tribunal is not proper and hence, he prays to set aside the impugned order.

7. On the other hand, learned counsel appearing for the applicant contended that the Tribunal erred in granting meager compensation of Rs.1,80,000/- as against the claim of Rs.10,00,000/- and the Tribunal also failed to consider the disability suffered by the applicant, therefore, he prayed to allow the appeal.

8. Though Ex.A.1 to A.18 discloses that the injuries sustained by the applicant are only lacerated injuries and non-schedule injuries, the Tribunal awarded Rs.1,80,000/- under non-schedule injuries i.e., Rs.1,00,000/- for the loss of earning capacity to do the work and Rs.80,000/- for the lacerated injuries. Since the applicant has not produced any evidence to show that he lost the earning capacity due to the injuries sustained by him, this Court is of the opinion that awarding Rs.1,00,000/- for the loss of

capacity to do the work is unjust and the same is liable to be set aside. In so far as awarding Rs.80,000/- under non-schedule injuries is concerned, the amount awarded by the Tribunal is just and proper and the finding of Tribunal on this aspect needs no interference, hence the same is confirmed.

9. In the result, the CMA.No.294 of 2008 is allowed in part, reducing the compensation awarded by the Tribunal from Rs.1,80,000/- to Rs.80,000/- under non-schedule injuries. Accordingly, CMA.No.758 of 2009 filed by the applicant is dismissed. There shall be no order as to costs. Miscellaneous petitions pending in this appeal, if any, shall stand closed.

Date: 19.11.2019
Shr

T.AMARNATH GOUD, J

