

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1182 OF 2012

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 29.08.2012, in O.A.A.No.218 of 2000, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. The appellant in the C.M.A. is the applicant, and the respondent in the C.M.A. is the respondent, 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 01.03.2000, the applicant, with a view to go to Kamareddy, went to Secunderabad Railway Station and purchased a journey ticket bearing No.02624460 and boarded Train No.573 Secunderabad-Bodhan passenger. When the train halted at Medchal Railway Station, the applicant got down from the train for drinking water, and when he re-boarded the train, it moved with sudden jerk, as a result of which, the applicant fell from the train and sustained grievous injuries. 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, came to the conclusion that the applicant failed to establish that he sustained injuries on account of an untoward incident and accordingly, dismissed the OAA.

6. The learned counsel appearing for the applicant contended that the applicant was a *bona fide* passenger travelling in a train carrying passengers; that he sustained injuries in an untoward incident; that the Tribunal ought to have granted compensation and hence, he prays to allow the appeal.

7. The learned Standing Counsel appearing for the Railways contended that the Tribunal has passed a well reasoned order and therefore prays to dismiss the appeal.

8. For the purpose of claiming compensation under Section 124-A of the Railways Act, 1989 (for short, the Act), two requirements have to be satisfied, firstly, there must be untoward incident whereunder a person died or sustained injuries and secondly that he was a *bona fide* passenger of the train. Untoward incident includes a person falling from the running train accidentally. Secondly, a person who died or sustained injuries must be a *bona fide* passenger travelling in the train with a valid ticket. If these requirements are proved, then the applicant is entitled for compensation. If the Railways want to resist the claim, it is has to prove that no untoward incident had happened or deceased was not a *bona fide* passenger travelling in a train

carrying passengers or its case falls under anyone of the exceptions as provided under proviso to Section 124-A of the Act.

9. In case of injuries, the applicant must show that he sustained injuries in an untoward incident as a *bona fide* passenger. It is not in dispute that the applicant was a *bona fide* passenger travelling in a train carrying passengers with a valid ticket. Now the question is whether the applicant sustained those injuries in an untoward incident on that day. He filed Ex.A.3-discharge card, which shows that he sustained injuries in a train accident. Dr.K.Ratna Raju, Deputy Civil Surgeon, Community Health Centre, Ponnur, was examined as A.W.2 and deposed that Ex.A.10-handicapped certificate, was issued by him; that the injury noted is post traumatic paraplegia and that post traumatic paraplegia with weakness can be possible due to fall from some height and it may be possible on falling from the train also. In view of the above evidence, this Court is satisfied that the injuries sustained by the applicant are on account of falling from a train and accordingly, the finding of the Tribunal in this regard is set aside.

10. Coming to the compensation, in view of the injuries sustained by the applicant, this Court is inclined to grant a sum of Rs.1,60,000/- as per Item 30 of Part III of Schedule, which is just and proper.

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed; the order dated 29.08.2012 in O.A.A.No.218 of 2000 on the file of the Railway Claims Tribunal, Secunderabad Bench at

Secunderabad, is set aside; and compensation of Rs.1,60,000/- is awarded to the appellant as per Item 30 of Part III of Schedule along with interest @ 7.5% per annum from the date of petition till the date of this judgment. The respondent/Railways shall pay the compensation awarded within three (3) months from the date of this judgment, failing which, interest at the rate of 9% per annum shall be paid on the compensation amount from the date of this judgment till the date of realization. Miscellaneous petitions pending in this appeal, if any, shall stand closed. No costs.

Date: 22.11.2019
TJMR

T.AMARNATH GOUD, J

