

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal No.1716 of 2014
and M.P.No.1 of 2014

The Union of India
Owning Southern Railway
Rep. by its General Manager,
Chennai-600 003.

... Appellant / Respondent

-vs-

V.Mohammed Ashim

... Respondent / Applicant

PRAYER: Appeal is filed under Section 23 of the Railway Claims Tribunal Act 54 of 1987 to set aside the Order dated 28.02.2014 passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U) No.238 of 2013 and allow the appeal filed by the Appellant.

For Appellant : M/s.Yazhini

For Mr.C.V.Ramachandramurthy

For Respondent : Mr.R.Sekaran

O R D E R

This Appeal has been filed to set aside the Order dated 28.02.2014 passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U) No.238 of 2013, by which the Appellant herein was directed to pay a compensation of Rs.2,50,000/- along with interest @ 6% per annum within 60 days to the respondent.

2. For the sake of brevity, the parties would be referred to by their nomenclature as found mentioned in this Appeal.

3. It is the case of the Appellant that the injury suffered by the respondent is a self-induced one, as the respondent, who was standing at the entrance of the Compartment, got down to fetch water and when the Train started moving, he boarded the train hurriedly and fell down from the Train, which had resulted in the respondent sustaining injury on 02.10.2012. It is the further case of the Appellant that the respondent was not in possession of a valid ticket and the ticket has not been marked in proof of his travel in the Train. It was vehemently argued

that since it was duly established that the accident had occurred on account of the carelessness / negligence on the part of the respondent, he is not entitled to any compensation.

3.1. It is also submitted by the Appellant that the amount towards compensation has not been properly arrived at, as it was the case of the respondent himself that he had sustained injury while boarding the train and the relief sought for cannot be granted. It is also argued that the compensation awarded by the Tribunal is on the higher side and the respondent is not entitled to any relief much less the compensation sought for.

3.2. Learned counsel for the Appellant drew the attention of this Court to Section 124(A) of the Railways Act, 1989, to contend that no compensation shall be payable to the passenger, who died or suffered injury due to self-inflicted injury and hence, it was pleaded that the present appeal is liable to be dismissed and the order of the Tribunal has got to be reversed.

4. The respondent has stated that though he has given a statement that he fell down while boarding the train after getting down in a Station to fetch water, he had duly proved the fact through Ex.A4 (Ticket) and the evidence of A.W.1 that he was a bona fide passenger and after scrutinizing and analyzing the evidence of parties, the Tribunal rendered a finding, thereby granting a compensation of Rs.2,50,000/- and the contention raised on the side of the Appellant that the injury suffered by him was a self-imposed injury is incorrect, as the word 'self-inflict' connotes a different meaning, which does not fall within the definition mentioned in Section 124.

4.1. The respondent has further stated that the Tribunal had awarded a meagre amount of Rs.2,50,000/- without taking into account the payment of minimum compensation of Rs.4,00,000/- prevalent at the time of accident and due to the sudden and unexpected fall, he lost the ticket at the time of accident and when the Tribunal has admitted his case, the burden shifts on the Railways to disprove the documentary evidence produced by him and the failure of the Railways to do so entitles him to claim compensation.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Admittedly, the respondent had travelled in the train, which was duly established by the documentary evidence before the Tribunal. Though there is a statement given by the respondent that he was standing near the door for the stoppage of the train in order to fill water in the empty cane at the Station, upon seeing the moving train and out of scare, he

boarded the train, slipped down and sustained severe injury. The contention of the Appellant that the injury was invited by the respondent on his own, for which, Railways cannot be blamed, cannot be accepted, as the amputation of a leg cannot at any stretch of imagination be said to be a self inflicted injury. It is to be remembered that when a person falls down from the train and sustains a serious injury, he cannot search for his ticket in the mishap, thinking that the ticket would be very much needed for claiming compensation before the appropriate Forum.

7. Having regard to the facts that the respondent has the benefit of the order of the Railway Claims Tribunal, Chennai Bench and considering the fact that the respondent had lost his leg in the accident, this Court finds no reason whatsoever to interfere with the order of the Tribunal, as the Tribunal had granted the relief correctly. Subsequently, the amount of Rs.4,00,000/- towards compensation has been increased to Rs.8,00,000/- with effect from 01.01.2017 in exercise of the powers conferred by Section 129 of the Railways Act, 1989 (Act 24 of 1989). However, the said compensation is not applicable to the present case on hand, as the accident in this case had taken place as early as on 02.10.2012.

8. In the result, the present Civil Miscellaneous Appeal is dismissed. The respondent is permitted to withdraw the entire amount deposited by the Appellant, if not already withdrawn by him by producing a copy of this order and on such production, the Tribunal is directed to release the amount to the respondent, within a period of one week from the date of production of the order. No costs. Consequently, connected miscellaneous petition is closed.

9. This Court places on record its deep appreciation to Ms.Yazhini, learned Junior Counsel, who has presented the case on behalf of the Standing Counsel for Railways in a nice and pleasing manner.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To:

The Railway Claims Tribunal,
Chennai Bench.

Copy to

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.C.V.Ramachandramurthy, Advocate Sr.5378

+1cc to Mr.R.Sekaran, Advocate Sr.5254

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srg 20/02/2020



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