

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.172 OF 2015

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 30.01.2015, in O.A.A.No.317 of 2007, 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 12.10.2006, the applicant, while travelling from Vijayawada to Rajahmundry by Train No.7016 Express, fell down from the said train at Godavari Station and sustained amputation of left leg below knee. The applicant was said to be in possession of second class (unreserved) tickets bearing No.277069900 from Vijayawada to Rajahmundry, dated 11.10.2006. 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, held that though the

injured applicant is a *bona fide* passenger and even though he sustained injuries on account of fall from the train, the same cannot be treated as an accidental fall since it happened due to deliberate action on the part of the injured applicant to get down from running train and dismissed the above said O.A.A. Aggrieved by the same, the appellant/applicant filed the present appeal.

6. Heard Sri Harinath Reddy Soma, learned counsel appearing for the appellant and Smt. Ch.Lakshmi Kumari, learned Standing Counsel appearing for the respondent/Railways. Perused the material record.

7. Sri Harinath Reddy Soma, learned counsel appearing for the appellant/applicant, contended that the appellant/applicant was a *bona fide* passenger travelling in a train carrying passengers; that he sustained injuries in an untoward incident and left leg below knee was amputated; that the Tribunal ought to have granted compensation and hence, he prays to allow the appeal.

8. Smt. Ch.Lakshmi Kumari, learned Standing Counsel appearing for the respondent/Railways, contended that the Tribunal has passed a well reasoned order and therefore prays to dismiss the appeal.

9. 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.

10. 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.

11. The Apex Court in a decision reported in **Jameela and others v. Union of India**¹ has categorically dealt with regard to the manner in which negligence of the criminal act and self-inflicted injuries have to be looked into and has drawn a

¹ 2010 ACJ 2453

difference and held that the Railways cannot deny their liability on the ground of negligence.

12. Now in the present case, the applicant is a *bona fide* passenger and the accident occurred is an act of negligence, but not a self-inflicted injury or a criminal act. Since the Railways Act being a beneficial legislation, and almost always the Courts have been taking a sympathetic view to award compensation to alleviate the suffering that the tragedy has caused and the innocence of the applicant cannot be taken as an advantage to deprive his right and in view of the evidence placed on record, 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.

13. Coming to the compensation, in view of the amputation of the left leg below knee of the applicant, this Court is inclined to grant a sum of Rs.4,00,000/- as per Item 20 of Part III of Schedule, which is just and proper.

14. Accordingly, the Civil Miscellaneous Appeal is allowed; the order dated 30.01.2015 in O.A.A.No.317 of 2007 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, is set aside; and compensation of Rs.4,00,000/- is awarded to the appellant as per Item 20 of Part III of Schedule along with interest @ 6% per annum from the date of application till the date of order and 9% per annum from the date of order till the entire amount is realized. The respondent/Railways

shall pay the compensation awarded within three (3) months from the date of this judgment, failing which, interest @ 9% per annum shall be paid on the compensation amount from the date of this judgment till the date of realization. No costs.

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

T.AMARNATH GOUD,J

Dated 10th January, 2020

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