

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 197/2021

The Union of India, through General Manager, Central Railway, C.S.T., Mumbai

Vs.

Afroz Khan S/o Yusuf Khan Pathan

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri. Nitin Lambat, Advocate for appellant

Ms Gayatri Diwe, Advocate h/f Shri PR. Agrawal, Advocate h/f for respondent

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 27/07/2022

The present appeal is filed challenging the order passed by Railway Claims Tribunal. There is no dispute that applicant was having valid ticket, he suffered amputation on right leg below knee. The Claims Tribunal allowed the appeal and granted compensation of Rs.4,00,000/-. The Union of India preferred this appeal as claimant was boarding the train in motion from the off side of the platform and therefore, it amounts to self inflicted injury which cannot be covered under Section 124 - A and will be exception to said section.

2. In view of judgment of Apex Court in *Union of India Vs. Rina Devi* reported in *AIR 2018 SC 2362 and*

Union of India Vs. Prabhakaran Vijay Kumar and others reported in *(2008) 9 SCC 527*, injury during the boarding or de-boarding the trains is an untoward incident and it cannot amount to self inflicted injury. The self inflicted injury required such intention to inflict such injury and not mere negligence of any particular degree. The Counsel for respondent/claimant also relied on judgment in First Appeal No.152/2018, wherein the claimant while alighting from running train suffered injury from the off side of the platform. As such, the learned Counsel for the Tribunal rightly assessed the evidence on record and granted the amount. The learned Tribunal right in holding the case is of untoward incident. There is no merit in the appeal. The appeal is dismissed.

(SMT. M.S. JAWALKAR, J.)

Jayashree..