



C.M.A.No.3500 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3500 of 2021

Dharmendra

... Appellant

vs.

Union of India through
General Manager,
Southern Railways,
Chennai-600 003.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 23(1) of Railway Claims Tribunal Act, against the order passed by the Railway Claims Tribunal in O.A.(II-U)/08/2020 dated 27.08.2021.

For Appellant : Mr.Ajay Francis Inigo Loyola

For Respondents : Mr.M.Vijay Anand
Addl. Standing Counsel
for sole respondent



C.M.A.No.3500 of 2021

JUDGMENT

Aggrieved by the dismissal of his claim petition before the Railway Claims Tribunal, the applicant has filed the above Civil Miscellaneous Appeal.

2. The facts in brief necessary for disposing this appeal are as follows:

It is the case of the applicant that on 07.04.2019, the applicant and his friends Dudoonath and Raj had come to the Manduadih Railway Station to travel to Chennai where they had planned to search for a job. The friends had therefore purchased the train ticket to come to Chennai and they had boarded the Rameswaram Express in the general compartment. The applicant/claimant would submit that on account of the heavy crowd, he had been travelling near the door of the compartment and on 09.04.2019 in the morning, the applicant/claimant had accidentally fallen down from running train near Minjur Railway Station. As a result of this, he had sustained amputation of toes of his right foot, grievous injuries in his spinal cord, as a result of which he



C.M.A.No.3500 of 2021

has lost the movement of his left hand and leg and crush injuries on his right foot. The applicant/claimant had therefore filed the appeal before the Railway Claims Tribunal claiming the accident to be the untoward one under Section 124 A of the Railways Act.

3. The Respondent had filed the reply statement, in which, they had denied the various allegations contained in the claim statement except those that were accepted by the respondent. The respondent would submit that as per the statement of the Station Master of Minjur Railway Station Mr.Sajeev Kumar on 09.04.2019 at about 9.24 a.m., when the Train No.15120 (Manduadih to Rameshwaram Express) was passing slowly through the third track of Minjur Railway Station three unknown persons attempted to get down from reserved coach without appropriate travelling authority during which the victim fell in gap between track and platform at the end of PF No.03/MJR and the train passed without stopping. The Station Master immediately called 108 Ambulance but before the arrival of Ambulance local people shifted the injured to hospital. He conveyed the same message to Control



Room, Gudur. The respondent states that on receiving the message from SM/MJR RPF Constable Gudur rushed to the spot and he was informed that the injured was shifted to Stanley Medical College Hospital. When he reached the hospital, the injured was in an unconscious state. Two friends and co-passengers of the injured were available in the hospital and they did not inform about availability of travelling authority. The respondent had also contended that the injury can only be defined as self-inflicted injury.

4. Considering the fact that the applicant/claimant had alighted at a place which is not a scheduled station, the Railway Claims Tribunal had dismissed the claim petition by holding that the applicant's case would not come under the category of untoward accident, as defined under Section 23 (c) (2) r/w.124 A of Railways Act. Challenging the same, the applicant has come before this Court.

5. Mr.Ajay Francis Inigo Loyola, the learned counsel appearing on behalf of the appellant would vehemently contend that it is a clear



C.M.A.No.3500 of 2021

case of an untoward incident and the applicant who is a young boy and who had proceeded to Chennai only with a view of searching for job to eke out his livelihood has suffered this tragedy. The Respondent has not proved that the applicant had caused the accident on his own due to his negligence on the contrary when the train had slow down, he had attempted to get down from the train. In support of his contention, the learned counsel for the appellant relied on the decisions of the Hon'ble Supreme Court in the case of ***Union of India vs. Prabhakaran Vijaya Kumar and others*** reported in ***CDJ 2008 SC 834*** and another case in ***Union of India vs. Rina Devi*** reported in ***CDJ 2018 SC 524*** and in the judgment of this Court in the case of ***M.Neelakandan and others vs. Union of India*** in ***C.M.A.No.3253 of 2017*** dated 22.02.2021 and in the case of ***Krishnaveni and others vs. Union of India*** in ***C.M.A.No.2192 of 2019*** dated 10.03.2021.

6. The said statement had been refuted by the learned counsel for the respondent.



7. Heard the learned counsel on either side and perused the materials on record.

8. The claimant in his proof affidavit would submit as follows:

"I state that on 07.04.2019 Myself and My friends Dudoonath and Raj came to Mandudir Railway Station to go to Chennai for searching Job and purchased train ticket for come to Chennai. We boarded Rameswaram Express Train. When the said train running near Minjur Railway Station I get ready to get down from the train schedule station and came to door ways of the compartment of the said train. On 09.04.2019 morning I had accidentally fallen down from the running train near Minjur Railway Station, result of which My Right Leg Four Toes caused crush injury, grievous injury in spinal cord, due to spinal cord injury My left leg and left hand could not activate."



9. The above statement would clearly show that the applicant had attempted to alight at the Minjur Railway Station where the train would slow down. Admittedly, Minjur Railway Station is not the scheduled stop and next scheduled stop even according to the learned counsel for the appellant is Chennai Egmore, which is quite a distance from Minjur. Therefore, the applicant has caused the accident by his negligence. The applicant cannot demand compensation from the Respondent/Railways especially when he has contributed to the same. The learned counsel has not been able to produce any documents or evidence that the said Minjur Railway Station where the applicant had sustained injuries was a scheduled stop. Therefore, it is clear that the applicant had invited the accident upon himself. Therefore, this is not a case where the accident was an untoward one. The accident had occurred on account of the fact that the applicant had not adhered to the basic safety measures stipulated for train travel. That apart, the applicant had attempted to alight when the train was in motion. This fact is admitted even in his chief examination. Moreover, the decisions relied on by the learned counsel for the appellant is distinguishable on



C.M.A.No.3500 of 2021

facts and the same is not applicable to the facts of the present case.

Therefore, I see no reason to interfere with the well considered order passed by the Tribunal below.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the order passed by the Railway Claims Tribunal in O.A.(II-U)/08/2020 dated 27.08.2021 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

15.11.2022

Index : Yes/No
Speaking / Non-speaking order
ssn



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C.M.A.No.3500 of 2021

To

1. The Railway Claims Tribunal,
Chennai Bench.
2. The General Manager,
Southern Railways,
Chennai-600 003.
3. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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C.M.A.No.3500 of 2021

P.T.ASHA, J.,

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C.M.A.No.3500 of 2021

15.11.2022