

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL NO: 504 OF 2018

Appeal Under Section 23 of Railway Tribunal Act against the order in O.A.II(U) No. 74 of 2014, dated 09.10. 2017 on the file of the Court of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad.

Between:

HARJIAN MADHU@S.MADHU, S/o. Harjian Essu, Aged about 25 years, Occ: Coolie, R/o. H.No.22/16,Apparala village, Kothakata Mandal, Mahabubnagar District, Pin No.590 321.

...APPELLANT/APPLICANT

AND

UNION OF INDIA, rep. By its General Manager, South Central Railway, Secunderabad.

...RESPONDENT

Counsel for the Appellant: Ms. N.S. GEETHA MADHURI, Advocate

Counsel for the Respondent: B. LAXMI PRASUNA (SC FOR CENTRAL GOVT)

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL MISCELLANEOUS APPEAL No.504 OF 2018

ORDER:

Aggrieved by the Order dated 09-10-2017 in O.A (II) (U) No.74 of 2014 passed by the learned Railway Claims Tribunal, Secunderabad Bench, by which his application for compensation was dismissed, the applicant in the said OA preferred this Civil Miscellaneous Appeal.

2. According to the grounds urged by the appellant in the present appeal, the main grievance of the applicant is that the Tribunal below adopted very narrow minded approach, in spite of the fact that the Act is beneficial piece of legislation. Thereby he sought for setting aside the Order and sought for an opportunity.

3. According to the Judgment filed along with the appeal and as per other record, it shows that O.A (II) (U) No. 74 of 2014 has been filed by the applicant herein for compensation on account of sustaining injuries in an untoward incident.

4. The said petition was filed with an allegation that the appellant with a view to attend contract labour work along with other three fellow coolies, went to Nanded railway station, in the evening hours of 24-06-2011, purchased a group passenger train journey ticket bearing No.65632622 from Nanded to Mudkhed and boarded Train No.57558 Nanded-Nizamabad passenger, while travelling the applicant due to heavy rush of passengers, accidentally slipped and fell down from the running train at Mudkhed railway station in between platform and he sustained head injury, severe crushed cut to his right hand and separated below the fore-arm by the wheels of the said running train and other multiple injuries due to speed and sudden jerks of train.

5. The respondent opposed the claim and filed written statement denying the material averments of the petition and put the applicants to strict proof of their case.

6. On the basis of the rival contentions, issues have been framed and matter was adjourned from time to time, for trial. However, on 09-10-2017 the application of the appellant herein was dismissed in view of the non-prosecution of the case.

7. It appears from the record that a memo was filed by the learned counsel for the applicant to refer the matter to Lokadalath and the same memo was filed without any consent of the respondent. Therefore, the memo was not accepted and in view of the circular from the Registrar, Railway Claims Tribunal, New Delhi vide Circular No.RCT/DLI/ Secunderabad/96 dated 26.12.2005 and in view of Section 15 of the Railway Claims Tribunal Act, 1987 and also basing on Judgment of High Court of Karnataka in W.P.No.36935 of 2000¹, the application of the applicant was dismissed vide separate Order.

8. The appellant has filed the present Civil Miscellaneous Appeal against the said Order and the learned counsel for the applicant has submitted that no proper opportunity was given to the appellant herein to submit his case before the Tribunal. Learned counsel has further submitted that the appellant and other persons who filed similar applications filed a memo before the Tribunal with a request to refer the matter before Lokadalath and it was bonafide request and therefore sought for an opportunity to contest their claim.

¹ AIR 2001 Karnataka 504

9. As could be seen from the Order challenged in the present Civil Miscellaneous Appeal, it shows that though the matter was adjourned from time to time for number of adjournments, the appellant herein did not choose to produce any evidence.

10. Learned counsel representing the respondent herein submitted that there are no bonafides in the Civil Miscellaneous Appeal and that the application itself is a fake claim and the same is liable to be dismissed.

11. It may be true that the appellant failed to adduce evidence inspite of number of adjournments but the application cannot be decided without giving any opportunity. The appellant is entitled to fair chance of producing evidence and proving his claim. Therefore, it is a fit case for remanding the matter to the Tribunal below, with a specific direction to dispose the same on merits by giving opportunity to both parties.

12. In view of the above discussion, this Civil Miscellaneous Appeal is allowed by remanding the matter to the Railway Claims Tribunal, Secunderabad Bench, and in O.A (II) (U) No. 74 of 2014 is restored. The Railway Claims Tribunal,

Secunderabad Bench is directed to dispose of the above OA by giving reasonable opportunity to both parties, for adducing evidence and submitting their respective arguments. The Tribunal shall dispose of the OA within 6 (Six) months from the date of receipt of records.

As a sequel, Miscellaneous Petitions, pending if any, shall stand closed. No costs.

//TRUE COPY//

SD/- B.S.CHIRANJEEVI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The Railway Claims Tribunal, Secunderabad Bench at Secunderabad. (with records)
2. One CC to Ms. N.S. GEETHA MADHURI, Advocate [OPUC]
3. One CC to Ms. B. LAXMI PRASUNA (SC FOR CENTRAL GOVT COUNSEL), Advocate [OPUC]
4. Two CD Copies

BN



HIGH COURT

DATED:02/09/2022

ORDER

CMA.No.504 of 2018



ALLOWING AND REMANDING THE CMA
WITHOUT COSTS.

⑤ VLV
23/12/22