

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

FIRST APPEAL NO. 1452 OF 2009

**The Union of India,
General Manager,
Central Railway,
Mumbai CST**

... Appellant

.. Versus ..

**Shri Premal S/o. Radhelal Pimparde,
Age 55 years, Occ. Service,
R/o. At Divtya, Post Joulkheda,
Tah. Multai, Dist. Betul
(Madhyapradesh)**

...Respondent

Ms. Neerja g. Chaubey, Advocate for appellant.

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

DATED : 14/07/2023

ORAL JUDGMENT

Heard learned counsel for the appellant - Union of India.

2) The present appeal is filed by the appellant - Union of India being aggrieved by the judgment passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim Application No. 13/AO-II/RCT/NGP/2006 dated 12/08/2009 awarding the compensation of Rs. 2,40,000/- to the respondent

by directing that a sum of Rs. 1,20,000/- shall be given by way of crossed Cheque and remaining amount of Rs. 1,20,000/- shall be invested in the Fixed Deposit Receipt with any Nationalized and/or Scheduled Bank for a period of 3 years with liberty to the applicant to draw accrued interest quarterly on the said FDR.

3) The brief facts of the case are as under:-

The respondent had filed the Claim Application alleging that on 13/05/2005, the respondent was travelling from Sindhi to Nagpur by Train No. 1439, Dadar – Nagpur Sewagram Express having a Pass No. 259113. He alleged that after starting of the train, he fell down from the train and as a result, his left hand fingers were amputated and left leg was fractured. He claimed Rs. 3,00,000/- for the said alleged injury.

4) The appellant Railway resisted the Claim Application alleging that it was not an untoward incident of accident but it is sheer negligence of the respondent and it amounts to self inflicted injury due to own criminal act which forms an exception to Section 124(A) of the Railway Act and the appellant Railway is exempted from such liability.

5) The learned Railway Claims Tribunal after considering the evidence on record, held that the applicant has proved that he was injured in untoward incident occurred on 13/05/2005 under Section 123(C) of the Railway Claims Tribunal Act, 1989 and he was a bonafide passenger. The learned Claims Tribunal duly considered the Station Diary and Charge Book of Sindhi Railway Station. From it, it reveals that his palm of left hand has been amputated in untoward incident of the accident. He was possessing Pass No. 259113 which was valid from 01/03/2005 to 30/06/2005. There was heavy rush in the train being Summer Vacation. He was hospitalised from 13/05/2005 to 05/06/2005.

6) Learned Claims Tribunal after considering Entry No. 3 of Part of Railway Accident and Untoward Incident Compensation Rule, 1990, awarded compensation. So far as the defence of Railway is that it was a case of self inflicted injury. There are ample judgments of the Hon'ble Apex Court that falling from the train while boarding or de-boarding cannot said to be a self inflicted injury. To describe such injury as a self inflicted injury, there has to be intention to cause injury to oneself in the act. As such, I do not see any reason to interfere in the judgment and

order passed by learned Claims Tribunal. Accordingly, the appeal stands dismissed.

7) The appellant is directed to deposit the entire amount of compensation along with accrued interest, if not deposited earlier, within a period of three months.

8) The respondent is entitled for remaining amount deposited by the appellant along with accrued interest.

9) Registry is directed to bring to the notice of the respondent about passing of this order by sending copy of the order to the respondent.

[SMT. M.S. JAWALKAR, J.]

B.T.Khapekar