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C.M.A.No.604 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.08.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.604 of 2022

K.Raju

...Appellant

Vs.

Union of India
through General Manager,
Southern Railway, Chennai.

...Respondent

PRAYER : The Civil Miscellaneous Appeal is filed under Section 23(1) of Railways Claims Tribunal, against the order passed by the Railways Claims Tribunal, Chennai Bench, in O.A.(II-U)/169/2019 dated 23.12.2021.

For Appellant : Mr.S.Parthasarathy

For Respondent : Mr.M.Karthikeyan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the order of dismissal dated 23.12.2021 made in O.A.(II-U)/169/2019 on the file of Railways Claims Tribunal, Chennai Bench.



2. The appellant/claimant filed the claim petition before the Tribunal stating that on 07.06.2019, after attending his work, he wanted to meet his son, who was taking treatment at Rajiv Gandhi Government General Hospital, Chennai; therefore, he boarded a Electric Multiple Unit Train at Pattabiram Railway Station to go to Chennai Central Station; that while, the said train entered into Basin Bridge Junction Station, he had accidentally fallen down from the train, due to the heavy crowd in the said train and run over by the train, as a result of which, his left hand and left leg above the knee got crushed; that he was treated as an in-patient at Stanley Medical College and Hospital, Chennai and thereafter, his left hand and left leg above knee were amputated; that since he was a bonafide passenger, he was entitled to a compensation of Rs.8 lakhs together with interest from the date claim petition till the date of payment.

3. The respondent herein filed a reply statement along with the report of the Divisional Railway Manager stating that as per the records, the appellant had fallen from the train on 07.06.2019 at about 18.57 hours, in the space between the train and platform No.2 of Basin Bridge Station, due to which, he sustained severe injuries; that the appellant indulged in an adventurous act and that he did not possess any journey ticket and therefore, he was not a bonafide passenger.



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4. The Tribunal found that since the appellant did not hold any valid train ticket, he cannot be treated as a bonafide passenger and therefore, dismissed the claim petition.

5. Against the said order of dismissal dated 23.12.2021 made in O.A.(II-U)/169/2019, the appellant has come out with the present appeal.

6. The learned counsel for the appellant submitted that the accident is not disputed by the respondent. The appellant had prima facie established that he has travelled in the train and he sustained injuries on account of the fall from the train. The nature of injuries suffered by him are crush injuries on the left hand and in the left leg. He became unconscious immediately and therefore, he had lost the ticket in the process. The Hon'ble Apex Court held that merely because no ticket was found from the appellant, it cannot be held that the appellant was not a bonafide passenger. In support of his submission, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in the case of *Union of India Vs. Rina Devi* reported in 2018 ACJ 1441 that mere absence of ticket from the injured or deceased will not negate the claim that he was a bonafide passenger. The learned counsel further submitted that the



appellant had discharged his initial burden of showing that he was a bonafide passenger and the respondent had not let in any evidence to reject the claim of the appellant. The learned counsel also relied upon the judgment of this Court in C.M.A.No.3126 of 2018 (S.Devaraj Vs. Union of India Owning) and the judgment of the High Court of Calcutta in the case *Radha Yadav Vs. Union of India* reported in 2018 ACJ 310.

7.Per contra, the learned counsel for the respondent submitted that the claim petition was rightly dismissed by the Tribunal. The appellant did not produce a ticket to establish that he was a bonafide passenger. In such circumstances, he can only be treated as a ticketless traveller and therefore, he was not entitled for any compensation. The learned counsel further submitted that there is no reason to interfere with the order of the Tribunal dismissing the claim petition.

8. This Court finds that admittedly the appellant had fallen down from the train on 07.06.2019 at about 18.57 hours between the train and Platform No.2 of the Basin Bridge Junction and he had sustained severe injuries on his left leg above the knee and the left hand. This fact is confirmed by the reply of the respondent. The only question is whether in the absence of any ticket, he can be considered to be a bonafide passenger. The Judgment of the Hon'ble



Supreme Court in the case of Union of India Vs. Rina Devi referred supra applies to the facts of the present case. The relevant portion of the said judgment is extracted herein below:

"17.4. We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly. "

9. In this case, it is a fact that the nature of injuries was so grievous that the left hand and the left leg above knee were amputated. The appellant had also stated that because of the fall and the injuries, he became unconscious. In such circumstances, one cannot expect the appellant to produce the ticket. His case was that the ticket was lost. The appellant had filed an affidavit stating so. The respondent has not denied the fact that he fell down from the train. The initial burden has been discharged by the appellant to show that he was a bonafide passenger. The respondent has not let in any evidence to contradict the



evidence let in on the side of the appellant. Therefore, in the facts of the present case, this Court is of the view that considering the nature of injuries suffered by the appellant, the non-production of the ticket alone cannot be the basis to hold that he was not a bonafide passenger. Therefore, the finding of the Tribunal to the effect that he was not a bonafide passenger is erroneous and the said finding is liable to be set aside.

10. The next question is, what should be the compensation to be awarded to the appellant. The learned counsel for the appellant submitted that since the left hand and the left leg above the knee were amputated and his disability is 100% . Therefore, he is entitled to Rs.8,00,000/- as compensation. The learned counsel for the respondent also fairly conceded that the appellant is entitled to the said sum of Rs.8,00,000/- on account of the injuries sustained by him. The appellant is therefore entitled to Rs.8,00,000/- together with interest at the rate of 8% per annum.

11. In the result, the Civil Miscellaneous Appeal is allowed. A sum of Rs.8,00,000/- is awarded as compensation together with interest at the rate of 8% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any on the compensation awarded by this Court. The respondent is directed to deposit the award amount now determined



by this Court, along with interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs. No costs.

02.08.2023

Index: Yes/No
Internet: Yes/No
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To

- 1.The Railways Claims Tribunal, Chennai Bench.
- 2.The Section Officer
VR Section, High Court of Madras.



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SUNDER MOHAN,J.

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