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C.M.A.No.2903 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.2903 of 2021

Gunnabathula Suresh

... Appellant

Vs.

Union of India
through General Manager
Southern Railway, Chennai.

... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed by the Railway Claims Tribunal, Chennai Bench, in O.A.(II-U)/189/2019 dated 30.07.2021.

For Appellants : Mr.S.Parthasarathy

For Respondent : Mr.M.Vijay Anand

JUDGMENT

The above appeal has been filed to set aside the order passed by the Railway Claims Tribunal, Chennai Bench, in O.A.(II-U)/189/2019 dated 30.07.2021.

2. It is the case of the appellant/claimant that he is a resident of



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Venkatapuram, Nagendra Colony of West Godavari, Andhra Pradesh. He was working as a day-to-day mason coolie worker. He came to Chennai along with his wife. On 09.06.2019, for mason coolie work, in order to return to his hometown on 11.06.2019, he purchased II class superfast train tickets bearing No.UME 84097623 from Chennai Central to Vijayawada junction at about 08.18 hrs and boarded the General Coach of the Navajeevan Superfast express. When the train was proceeding towards Basin Bridge Railway station, due to heavy crowd in the General coach, he accidentally fell from the running train and he sustained grievous injuries to his head, his left leg was amputated below the knee level and his right foot crushed and on the basis of the gangman in the yard, the Railway Police Force arranged 108 ambulance and sent the appellant to Government Stanley Hospital on 11.06.2019 for treatment at 01.00 p.m and he was admitted upto 06.00 p.m on 12.06.2019. Thereafter, on 02.07.2019, he was admitted in A.P.Vaidya Vidhana Parishad District Hospital, Eluru, Andhra Pradesh and on 23.07.2019, he was discharged from the said hospital. In view of the untoward incident, the appellant is being a *bona fide* passenger, he filed a claim petition before the Railway Claims Tribunal in terms of Section 124 of the



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Railways Act, 1989 and the same was rejected. Challenging the same, the present appeal has been filed.

3. The learned counsel for the appellant submitted that the appellant, a *bona fide* passenger as defined under Section 123(2) and Section 2(29) of the Railways Act, 1989, had accidentally fallen from a moving train. He submitted that the gangman at the Railway Coach Yard at Basin Bridge witnessed the incident and informed the Railway Police Force, which arranged for a 108 ambulance. However, the Claims Tribunal rejected the appellant's claim due to a perceived discrepancy in the ticket and the time of travel. The learned counsel contended that this conclusion was unsustainable, as the appellant had filed an affidavit and provided proof of purchasing a ticket, which was not disproven by the Railways Department through independent evidence. Accordingly, he prayed for allowing the appeal.

4. Per contra, the learned counsel for the respondent would submit that the ticket was not recovered from the appellant / claimant, but rather from the co-passenger of the appellant. The Inspector of Railway Police



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Force was examined as C.W.1. As per C.W.1, the Sub Inspector of GRP, Coimbatore, deposed before the Tribunal stating that he met Dr.Vardhamal at AP Vaidya Vidhana Parishad District Hospital, Eluru on 28.10.2019 and recorded a statement from him on the same day. He further deposed that the appellant's legs had been amputated and that Dr.Vardhamal had treated the appellant on the basis of O.P.No.23555. However, the statement of co-passenger Kanama Naidu, recorded on 11.06.2019, contradicted the appellant's account. The learned counsel pointed out that the appellant's train ticket showed travel between 08.18 a.m and 08.40 a.m on Navajeevan Superfast Express, but the appellant was secured by the Railway Police Force at 02.30 p.m and admitted to the hospital at 01.00 p.m, which raised doubts about the accident. Therefore, the learned counsel submitted that the Railways Tribunal 's decision to reject the claim was justified and accordingly, he prayed for dismissal of the appeal.

5. Heard the learned counsel for the appellant/claimant and the learned counsel appearing for the respondent and also perused the materials available on record.



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6. Admittedly, the appellant is the claimant. He has filed claim petition before the Railway Claims Tribunal seeking compensation for the injuries sustained by the appellant. The Tribunal has dismissed the said petition on the ground that the appellant was not a *bona fide* passenger and that the appellant was injured not on account of an accidental fall from a train to qualify an untoward incident under Section 123(c)(2) of the Railways Act, 1989.

7. From the narration of facts relating to the appeal, two questions emerge before this Court for consideration, viz.,

1) Whether the injured person was bonafide passenger and the manner of accident leading to sustaining injuries could be held to be an untoward incident falling within the ambit of [Section 123\(c\)](#) of the Railways Act, 1989 ?

2) Whether the appellant/claimant in this appeal is entitled for compensation under [Section 124A](#) of the Railways Act, 1989 for the death of the deceased persons in an untoward incident ?



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8. For better appreciation, Section 123 and 124(A) of the Railways Act are extracted hereunder:

“Section 123 in The Railways Act, 1989

(c) “untoward incident” means—

(1)(i) the commission of a terrorist act within the meaning of sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii)the making of a violent attack or the commission of robbery or dacoity; or

(iii)the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2)the accidental falling of any passenger from a train carrying passengers.]

124. Extent of liability.—When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying



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passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident. Explanation.—For the purposes of this section “passenger” includes a railway servant on duty.”

9. From the above said provision, it transpires that any passenger, who accidentally falls from a running train, the same would stand covered under the definition "untoward incident" and once the incident is untoward, it would attract the liability of the Railways to compensate the said passenger.



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10. It is undisputed that the appellant was a traveler on the Navajeevan Superfast Express, having boarded at Chennai Central and purchased a II-Class Superfast train ticket at approximately 08.18 a.m. He claimed to have accidentally fallen from the running train due to heavy crowding in the general coach at Basin Bridge Railway Station, resulting in severe injuries, including the amputation of his left leg below the knee and crushing of his right foot. The facts of the incident are corroborated by the gangman's report to the Station Manager at 10 Lever Frame/MAS, stating that a person had fallen from the moving train between BBQ-MAS (Basin Bridge, Madras) and sustained injuries. The RPF/Coaching Yard Police subsequently sent the appellant to Government Stanley Hospital via 108 ambulance. The testimony of C.W.1, examined by the Railways, further confirms that the appellant's statement was recorded in the hospital, and the train ticket was recovered from his co-passenger. These evidence collectively establish that the appellant was a bona fide passenger who traveled on the train, fell from it, and sustained grievous injuries, entitling him to compensation of Rs.8 Lakhs.

11. Accordingly, the Civil Miscellaneous Appeal is allowed



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and the respondent is directed deposit a sum of Rs.8,00,000/- as compensation to the credit of OA(II-U)/189/2019, along with interest at the rate of 6 % per annum, from the date of petition till the date of realization, within a period of four (4) weeks from the date of receipt of a copy of this judgment. Out of the compensation amount, the appellant is entitled to receive the same. On such deposit being made, the appellant is permitted to withdraw the compensation as awarded by this Court along with interest and costs, by filing an appropriate application before the Court concerned. No costs.

04.12.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.,

Anu

To

1. The Railway Claims Tribunal, Chennai Bench

2.The General Manager

Southern Railway, Chennai.

2. The Section Officer,
V.R.Section, High Court,
Madras.

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