

Court No. - 20

Case :- FIRST APPEAL FROM ORDER No. - 99 of 2021

Appellant :- Yogendra Singh And Anr.

Respondent :- U.O.I. Thru. General Manager East Central Railway Hazipur

Counsel for Appellant :- Manish Kumar Srivastava, Adarsh Srivastava, Chandra Prakash Singh, Saroj Kumari

Counsel for Respondent :- Shiv P. Shukla, Shiv P. Shukla

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the appellants and Shri Anand Dwivedi, learned counsel appearing for the respondent.
2. Appellants through this First Appeal From Order have challenged the order dated 04.09.2013 passed in Original Application No.OA/II/U/722/2011 and order dated 09.02.2021 passed in Review Application No. Rev/A/13/2013.
3. Learned counsel appearing for the appellants has submitted that Rule 8 of Railway Claims Tribunal Rules, 1989 (hereinafter referred to as "Rules of 1989") provides that an application for compensation payable under Sections 124 and 124A of the Railways Act, 1989 may be filed before the Bench of the Railway Claims Tribunal having territorial jurisdiction over the place from where the passenger obtains or purchases his pass or ticket or where the accident or untoward incident occurs or where the place of destination station lies or where the claimant normally resides. He has further submitted that on the basis of provisions made in the Rules of 1989, appellants filed claim before the Railway Claims Tribunal, Lucknow Bench, Lucknow and the ground for maintaining the claim at Lucknow was that the claimants are residents of Lucknow, however, it transpires from the orders passed by the Railway Claims Tribunal that claimants could not produce any document to show that they are residents of Lucknow, and accordingly, Railway Claims Tribunal has rejected the Original Application vide order dated 04.09.2013 on the ground of jurisdiction, and thereafter, Review application filed for review of order dated 04.09.2013 has also been rejected vide order dated 09.02.2021.
4. Learned counsel appearing for the appellants invited the attention of this Court towards Section 20 of Railway Claims Tribunal Act, 1987 (hereinafter referred to as "Act of 1987") which gives power to the Chairman to transfer the cases from one Bench of the Railway Claims Tribunal to another. He further invited attention of this Court towards Rule 3(3) of Rules of 1989 and submitted that if any particular Bench where

the claim has been presented does not have territorial jurisdiction then an application can be moved before the Chairman of the Railway Claims Tribunal under Rule 3(3) of the Rules of 1989 and the Chairman shall pass order for transfer of such claim before an appropriate Bench having jurisdiction to hear such claim.

5. For ready reference, Section 20 of the Act of 1987 and Rule 3(3) of the Rules of 1989 are extracted as under:

"Section 20:- Power of Chairman to transfer cases from one Bench to another.—On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.

Rule 3(3):- Notwithstanding anything contained in sub-rule (2) the applicant may apply to the Chairman and the Chairman may thereupon for reasons to be recorded in writing direct a Bench other than the Bench before which an application has been filed to hear such application and issue such orders as may be necessary for the transfer of the application."

6. On the strength of the aforesaid provisions of law, learned counsel appearing for the appellants has vehemently submitted that once, Railway Claims Tribunal, Lucknow Bench, Lucknow was of the view that the jurisdiction was not at Lucknow, then the Claim petition filed by the claimants could have been transferred to a Bench having jurisdiction in the matter.

7. I have considered the arguments advanced by the learned counsel appearing for the appellants and I find that Rule 3(3) of the Rules of 1989 provides that if the claim petition has been filed before a Bench of the Railway Claims Tribunal which does not have territorial jurisdiction then an application has to be moved by the claimant before the Chairman for its transfer to the appropriate Bench having territorial jurisdiction.

8. In the aforesaid circumstances, this Court is of the view that the appellants are claiming compensation arising out of a Railway accident therefore, they need to be dealt with leniency.

9. Accordingly, the appeal is **allowed**. The order dated 04.09.2013 passed in Original Application No.OA/II/U/722/2011 and order dated 09.02.2021 passed in Review Application No. Rev/A/13/2013 are hereby **set aside**.

10. The appellants are permitted to file an application before the Chairman, Railway Claims Tribunal under Rule 3(3) of the Rules of 1989 within a period of four weeks from today and if such application is filed, it is expected from the Chairman, Railway Claims Tribunal that he will consider and pass order

for transfer of the appellants' claim from Lucknow Bench of Railway Claims Tribunal to any other Bench having territorial jurisdiction in the matter.

11. The aforesaid exercise shall be done by the Chairman, Railway Claims Tribunal within a period of eight weeks from the date of filing of the application by the appellants.

Order Date :- 15.3.2024

V. Sinha