



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on : 17 March 2025**
Judgment pronounced on: 16 April 2025

+ **FAO 66/2014**

SH. ASHOK KUMAR SHARMAAppellant

Through: **Mr. N.K. Gupta, Adv.**

versus

UNION OF INDIARespondent

Through: **Mr. Sumit Nagpal and Ms. Aastha Sood, Advs.**

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The appellant has preferred this appeal under Section 23 of the Railway Claims Tribunal Act, 1987 [**'RCT Act'**] to set aside/quash the impugned order dated 22.10.2013 passed by the Railway Claims Tribunal [**'Tribunal'**] whereby the claim petition of the appellant/claimant under Section 16 of the RCT Act seeking compensation, on account of injuries sustained by him in the alleged 'untoward incident' involving an express passenger train of the respondent, was dismissed.

2. Briefly stated, it was the case of the claimant/appellant that he purchased one general ticket for his journey from Agra Cantt to Hazrat Nizamuddin in Karnataka Express train bearing No. 12627 on a valid ticket of Rs. 60/- bearing No. 37628226 in the general compartment. It was claimed that the general compartment was overcrowded and as the train approached Tughlakabad Railway Station and was coming to a



halt, there was a sudden jerk and the train moved ahead which resulted in some commotion amongst the passengers, and due to pressure from the crowd, the appellant fell from the moving train, sustaining grievous injuries.

3. Further, it was stated that he was taken to the AIIMS¹ Trauma Centre, New Delhi, and later treated at Jai Prakash Narayan Hospital and Safdarjung Hospital, where his left leg was amputated. The appellant alleges that the GRP Police recorded his statement incorrectly and took his signature while he was in distress. His ticket was recovered and presented as evidence. Subsequently, he filed a claim application bearing O.A. No. 276/2011 before the learned Tribunal, on 26.05.2011.

4. Based on the pleadings, learned Tribunal framed the following issues:-

1. Whether the applicant proves that he was a Bonafide passenger on the train in question on the relevant day?
2. Whether the applicant had sustained injuries in an untoward incident while travelling in the train in question? If so, the nature and extent thereof?
3. Whether the matter is covered within the four corners of the terms of "untoward incident" as defined under Section 123 (c) (2) of the Railways Act, 1989?
4. Whether the Respondent is protected under the exceptional clause of Section 124-A of the Railways Act and are not liable to pay any compensation?
5. To what order/relief?

¹ All India Institute of Medical Sciences



5. The claimant/appellant was examined as AW-1. Sh. K.K. Chakravorti, Deputy Station Superintendent was examined as RW-1, Sh. Ram Sahay as RW-2 and Dr. Parmel Yadav as RW-3.

6. The learned Tribunal dismissed all the issues against the respondent since the issues no. 1 & 2 were decided against him holding that the injured was not a *bonafide* passenger and rather he was specially brought in the fourth coach from the engine as an injured person, administered first aid and then taken to the Hospital in an ambulance.

ANALYSIS & DECISION

7. Having heard the learned counsels for the parties and on perusal of the record including the digitized Trial Court record, this Court has no hesitation in holding that the present appeal is devoid of any merit.

8. It would be expedient to reproduce the findings recorded by the learned Tribunal on issues No. 1, 2 and 3 which read as under:

“11. From the above evidence, adduced by the respondent, it is abundantly clear that even before 10:30 AM, the time of arrival of the train at the platform, there has been intimation to RW-1, Dy. Station Superintendent, that an injured passenger was being brought by the train in the 4th coach from engine and he was also requested to make necessary arrangements for rendering first-aid and request for ambulance. The said information was received by Dy. Station Superintendent at 10:05 hrs. itself as can be seen from the evidence of RW-1 coupled with the entry in the Station Diary, Ex.RW-1/1. Thus, even about half-an-hour of the arrival of the train, there was intimation to RW-1, Dy. Station Superintendent about the injured applicant being brought by the said train and RW-1 contacted the railway doctor, RW-3, who came to the railway station and rendered the first-aid after the applicant was detrained S-1 coach. There is absolutely no reason to discard or disbelieve the above evidence,



oral and documentary, adduced by the respondent. The said evidence totally falsifies the claim of the applicant that he travelled by Karnataka Express as a passenger and while deboarding the train at Hazrat Nizamuddin railway station, he had an accidental fall, as a result of which, he suffered the injury. The evidence on record would establish that even by the time the train arrived at Hazrat Nizamuddin, the applicant was already in injured condition with his left leg hanging loose, and, therefore, he was brought by the said train and necessary arrangements for rendering first-aid and for his transport to Trauma Centre was made by the Dy. Station Superintendent, RW-1, on prior intimation.

12. The case of the applicant is that he fell down on the track. It is not the case that while deboarding, he fell down and was caught between the compartment and the platform. Even according to him, incident occurred after the train arrived on the platform and was about to stop. If really, he had a fall from the train while deboarding or due to any jerk when the train was coming to a halt, either he should fallen on the platform or caught between the platform and the compartment. But neither is the case of the applicant. If really the applicant had such a fall on the track, as claimed by him, he would have suffered multiple injuries. But as per the MLC, Ex.AW-1/5 of Jai Prakash Norain Centre or the discharge slip, Ex.AW-1/8, the only injury sustained by the applicant was on the left leg, which of course resulted in amputation of the left foot. The applicant has not produced any medical record to show that he suffered any other injury and underwent treatment for the same. It is improbable that in the event of accidental fall from the moving train in the manner alleged by the applicant, he would have suffered only single injury on the left leg. The applicant has also not produced any record of investigation by the police or any Final Reports of police in conclusion of such investigation to show that it was a case of accidental fall from a moving train. Simply because the applicant was found to be having a crush injury on the left leg and that he was shifted in that injured condition by the train to Hazrat Nizamuddin, the said injury cannot be attributed to an accidental fall from a moving train especially in the absence of any evidence in support thereof. It is possible that the applicant suffered the injury at some place and he was merely shifted by the Karnataka Express on that morning to Hz. Nizamuddin R.S.

13. Before seeking compensation under the provision of Section 124-A of the Railways Act, the applicant has to establish that the



cause of the injury is an accidental fall from the train amounting to an untoward incident within the meaning of Section 123(c) of the Railways Act. In the present case, what all the evidence discloses is that the applicant, who was already in injured condition, was merely shifted in that condition by S-1 coach of Karnataka Express to Hazrat Nizamuddin railway station on that morning and after rendering first-aid at the platform, he was taken to the Trauma Centre by ambulance, arranged by the station authorities. It is obvious that after having utilized the services of the respondent railway in the above manner, the applicant has now come forward with the present application seeking compensation as if he sustained the injury while the train was coming to a halt at Hazrat Nizamuddin due to accidental fall. The claim of the applicant stands falsified by the evidence available on record, as discussed supra. In these circumstances, it is held that the applicant cannot be considered to be a *bonafide* passenger on board Karnataka Express, as claimed by him, notwithstanding Ex.AW- 1/6, and the injuries sustained by the applicant is not due to accidental fall amounting to untoward incident within the meaning of Section 123(c) read with Section 124 A of the Railways Act. These Issues are answered accordingly.”

9. At the outset, the aforesaid reasons given by the learned Tribunal cannot be said to be illegal, perverse or suffering from any kind of incorrect approach on law and facts. **Firstly**, the appellant has failed to lead any credible evidence that he was a *bonafide* passenger on board Karnataka Express; and that he sustained any injuries due to ‘untoward incident’ as defined under Section 123(c)(2) of the Railways Act, 1989 thereby disentitling him to seek compensation under Section 124-A of the Railways Act.

10. Needless to state, the burden of proving the foundational facts of having sustained injuries in an ‘untoward incident’ was upon the appellant. It is the case of the appellant that he was accompanied by a



relative, namely Shiba but no such witness was summoned or produced in evidence. On the contrary, statement of RW-1/Mr. K.K. Chakravorti, Deputy Station Master would clearly go to suggest that the appellant was already in an injured condition and he was brought by a Train at Hazrat Nizamuddin Railway Station and after giving First Aid he was removed to the Hospital in an Ambulance.

11. The sequence of events belies the version of the appellant that he was injured due to a fall from a moving train while deboarding at Hazrat Nizamuddin Station. If the injury had indeed occurred moments before the train came to a halt, it is improbable that the Station Staff could have received advance information and arranged for medical assistance prior to the train's arrival.

12. It is also pertinent to mention that the appellant apparently suffered localized crush injuries to his left leg alone resulting in amputation. There were complete absence of other injuries on his body that would have normally occurred on having a fall from the train. Although, possession of a railway ticket would classify the appellant as a *bonafide* passenger but then there is no evidence whatsoever so as to show that the appellant was involved in an 'untoward incident'.

13. In view of the foregoing discussion, the present appeal is dismissed.

DHARMESH SHARMA, J.

APRIL 16, 2025

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