
(2019) 12 TEL CK 0005
In the Telangana High Court
Case No : C.M.A.No. 598 Of 2005

Karipaka Rangan

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23
Railways Act, 1989 — Section 2(29), 124A

Citation : (2019) 12 TEL CK 0005

Hon'ble Judges : T. Amarnath Goud, J

Bench : Single Bench

Advocate : S.Chandra Shekhar, Pushpinder Kaur

Final Decision : Partly Allowed

Judgement

1. This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the Order, dated 16.03.2005, in O.A.A.No.121 of 2001, on the file of the Railway Claims Tribunal, Secunderabad Bench, Secunderabad (for short, the Tribunal).
2. The appellant in the C.M.A. is the applicant, and the respondent in the C.M.A. is the respondent, before the Tribunal. For better appreciation of facts, the parties hereinafter are referred to, as they are arrayed before the Tribunal.
3. The brief facts of the case are that the applicant was working as a Vendor Helper under licensed vendor Mr. Ramasubramanyam since 1987 in Renigunta Railway Station and that on 06.01.2001, the applicant along with another vendor came to the Train No.1081 with a view to sell Idli and vada to passengers near general compartment. Since one of the lady passengers inside the compartment requested for supplying idli and vada to her children, he boarded the compartment and while getting down, the train suddenly started and due to jerks, he accidentally slipped and fell down under the train, which ran over his leg. Hence, the applicant filed the above OAA seeking compensation.

4. Railways filed written statement denying the averments made in the application and prayed to dismiss the same.

5. The Tribunal, on consideration of the oral evidence of P.W.1 and the documentary evidence of Exs.A-1 to A-6, came to the conclusion that the applicant failed to establish that he sustained injuries on account of an untoward incident and accordingly, dismissed the OAA.

6. Heard Sri S.Chandra Shekhar, learned counsel appearing for the appellant and Smt. Pushpinder Kaur, learned standing counsel appearing for the respondent/Railways. Perused the material record.

7. Learned counsel appearing for the applicant contended that the applicant was a bona fide passenger travelling in a train carrying passengers; that he sustained injuries and his right thigh was amputated upto knee joint in an untoward incident; that the Tribunal ought to have granted compensation and hence, he prays to allow the appeal.

8. In support of his contention, learned counsel for the appellant relied on the following three decisions:

(i) Minu Mai Devi v. Union of India LAWS (GAU) 2000 2 6

(ii) R.Geetha v. Union of India and another AIR 2005 KERALA 33 &

(ii) Union of India v. Rina Devi Civil Appeal No.4945 of 2018 dated 09.05.2018

9. The learned Standing Counsel appearing for the Railways contended that the Tribunal has passed a well reasoned order and therefore prays to dismiss the appeal.

10. For the purpose of claiming compensation under Section 124-A of the Railways Act, 1989 (for short, the Act), two requirements have to be satisfied, firstly, there must be untoward incident whereunder a person died or sustained injuries. Untoward incident includes a person falling from the running train accidentally. Secondly, a person who died or sustained injuries must be a bona fide passenger travelling in the train with a valid ticket. If these requirements are proved, then the applicant is entitled for compensation. If the Railways want to resist the claim, it has to prove that no untoward incident had happened or deceased was not a bona fide passenger travelling in a train carrying passengers or its case falls under any one of the exceptions as provided under proviso to Section 124-A of the Act.

11. In case of injuries, the applicant must show that he sustained injuries in an untoward incident as a bona fide passenger. Now the question is whether the applicant sustained injuries in an untoward incident on that day.

12. Chapter I of the Act under Section 2(29) of the Act provides the definition of the term "Passenger" which means a person travelling with a valid pass or ticket. There are two vital elements in this definition, namely "Valid pass or ticket" and

also should be "travelling" in a train.

xiii) In Minu Mai Devi's case (supra), it is observed that the meaning of the word 'passenger' is only for the purposes of Section 124-A of the Act. Under Explanation to Section 124-A of the Act, the definition of the word 'passenger' has been made 'inclusive', whereas under Section 2 (29) of the Act, it is confined to 'meaning' of the word 'passenger'. The change is from 'means' to 'includes'. It is thus clear that for the purposes of Section 124-A of the Act, the meaning of the word 'passenger' becomes inclusive and it may include persons even other than those who are indicated in the provision. The list of persons cannot be treated to be exhaustive. Otherwise, there was no difficulty in providing in the Explanation to Section 124-A of the Act that for the purposes of the said provision, the word 'passenger' would also 'mean' the persons mentioned under clauses (i) and (ii) to the Explanation. In that event, it would have exactly applied to those categories of persons to be treated as passenger for the purposes of Section 124-A of the Act. But that has not been done, instead the word 'means' used in clause (29) of Section 2 of the Act, the word 'includes' has been used to the Explanation to Section 124-A of the Act. This makes it clear that category of persons mentioned in clauses (i) and (ii) of the Explanation or those mentioned under Section 2 (29) of the Act, may also be included in the definition of passenger for the purpose of Section 124-A of the Act. It is further observed that under Section 2(29) of the Act, 'passenger' means any person travelling with a valid pass or ticket and for the purposes of Section 124-A of the Act inclusive definition has been provided 'including' all those persons as passenger who purchase a valid ticket for travelling or a valid platform ticket besides a railway servant on duty. The main ingredient, to be found in both the definitions is that the presence of the person on the train or at the platform should be validly authorized. For this purpose, inclusive definition of the word 'passenger' under Explanation to Section 124-A of the Act considers railway servant on duty or a holder of platform ticket or a valid ticket for travelling to be a 'passenger'. By making the definition inclusive, other persons falling in the similar category may also be included within the meaning of the word 'passenger' by giving liberal construction to a beneficial legislation specially legislated to compensate a victim or his dependants in the case of his death in a railway accident.

xiv) Admittedly in Renigunta Railway Station, the South Central Railways have issued license in favour of Mr. Ramasubramanyam for vending the food products. The helpers of the vendors are also allowed to sell the eatables in Railway Station, on platform and also in the train. Ex.A-5 is the Identity Card No.18 issued by the South Central Railways to the applicant-K.Rangan with designation-Helper, VRR Vendor for catering service, Guntakal Division of South Central Railways. The authorized signatory is the Assistant Commercial Manager. Ex.A-1 is a communication issued by the Station Master, Renigunta, to the Government Railway Police on 06.01.2001 indicating that the applicant has fallen down while de-training from Train No.1081 at 16.50 hours. Ex.A-4 is the statement of Mr.

Ramasubramanyam recorded by the Railways, wherein he has categorically stated that the applicant-Rangan was working with him as a Helper and on 06.01.2001, he slipped from the Train No.1081 and got injured while selling eatables near general compartment. The Railway Police shifted the applicant to the Government General Hospital for treatment.

15 The Railways have not placed anything on record to show that the helpers of the vendors are not allowed to move freely on the platforms and to board the train in order to sell the eatables. When a person holding a platform ticket, in the process of moving on the platform, if he falls down and gets injured, he is entitled for compensation since the applicant is holding a valid Identity Card issued by the Railways identifying him as a 'Helper' with the vendor. It cannot be presumed that when the train stops on a particular platform for a short while, the passenger will be facilitated with his requirements by eatables, beverages and reading material at his door steps. The passenger at the same time cannot take the risk of getting down from the train leaving his luggage at risk and more so, again getting back to the train would be a Herculean task, as the vending stores, canteen, etc., are placed at an allocated area. To facilitate the passengers, the licensed vendors have been provided with certain helpers in order to make the passengers to avail the benefit of having their food or any other material at their door steps. The said facility has not been prevented by the Railways and when the same is entertained, it cannot be said that the helper is an unauthorized person on the platform and in the Railway Station. Having allowed the helpers in the Railway Stations and on the platforms of the Railway Stations to move freely and to sell the eatables or any other products permitted by the Railways, it is not open for the Railways to deny the compensation in the event of any untoward incident faced by the helpers/workers working with the licensed vendors. The Identity Card issued in favour of the helpers by the Railways to move freely on the platforms has to be treated as a valid pass or a platform ticket. Since the activities of the vendors and their helpers on platform form part and parcel of the railway activities, it can even be considered in a broader aspect as a railway servant on duty since their majority hours in a day is spent in the Railway Station in selling the permitted goods though they are not performing any official duty, but the Railways have authorized them to perform their duty of selling the eatables on the platforms of the Railway Stations.

16. In view of the above discussion, this Court is satisfied that the injuries sustained by the applicant are on account of falling from a train and accordingly, the finding of the Tribunal in this regard is set aside and the applicant is entitled for compensation.

xvii) Coming to the compensation, in view of the injuries sustained by the applicant and amputation of his right thigh upto knee joint, this Court is inclined to grant a sum of Rs.4,80,000/- as per Item 19 of Part III of Schedule, which is just and proper.

xviii) Accordingly, the Civil Miscellaneous Appeal is partly allowed; the order,

dated 16.03.2005, in O.A.A.No.121 of 2001, on the file of the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad, is set aside; and compensation of Rs.4,80,000/- is awarded to the appellant as per Item 19 of Part III of Schedule along with interest @ 7.5% per annum from the date of petition till the date of this judgment. The respondent/Railways shall pay the compensation awarded within three (3) months from the date of this judgment, failing which, interest at the rate of 9% per annum shall be paid on the compensation amount from the date of this judgment till the date of realization. No costs.

Miscellaneous petitions pending in this appeal, if any, shall stand closed.