

(2025) 12 KL CK 1850

In the High Court Of Kerala

Case No : Miscellaneous First Appeal (RCT) NO. 20 Of 2024

Sidharth K. Bhattathiri

APPELLANT

Vs

Union Of India Represented By General Manager Western
Railway

RESPONDENT

Date of Decision : 18-12-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Railways Act, 1989 — Section 123(c), 124A

Railway Claims Tribunal (Procedure) Rules, 1989 — Rule 14, 15C, 134, 181, 181(1)

Citation : (2025) 12 KL CK 1850

Hon'ble Judges : S.Manu, J

Bench : Single Bench

Advocate : Adhil P., Muhammed Ibrahim Abdul Samad, Shabeer Ali Mohamed,
A.R.Gangadas

Final Decision : Disposed Of

Judgement

S.Manu, J

1. Aggrieved by the rejection of O.A.No.25/2023 on the file of the Railway Claims Tribunal, Ernakulam Bench the applicant has filed this appeal.

2. The appellant was a TV journalist. While he was travelling in Train No.22659, Kochuveli - Yog Nagari Rishikesh Super-Fast Express, from Kochuveli to Hazrat Nizamudeen on 19.11.2022, and when the train reached Surat Railway Station, he sustained injuries in an accident resulting in the amputation of both legs and fracture of the lateral end of the clavicle, having minimal displacement to the left side. The O.A. was filed seeking compensation to the tune of Rs.15,00,000/- with interest at the rate of 18% from the date of the accident.

3. The appellant was examined as AW1. Exts.A2 to A11 were marked on his side. On the side of the Railway, the Guard of the train was examined as RW1. DRM report was marked as Ext.R1. CCTV visuals recorded in a CD was marked as

Ext.RW-1/B. A strange practice of marking the proof affidavit as exhibit was followed by the Railway Claims Tribunal in this case. Affidavits filed in lieu of chief examination are to be treated as part of the oral evidence of witnesses and not as documents marked in evidence.

4. The Tribunal, on analysing the evidence, noticed that the version of the appellant in his claim petition was contrary to the actual facts. It was proved that the appellant had got down at Surat Railway Station and attempted to board the train again after the train moved from the station. While trying to catch the door handle of a compartment after the train had gained speed, he fell down between the train and the platform and suffered multiple injuries. This was clear from the CCTV visuals and also from the evidence of RW1. The Tribunal held that the appellant presented a concocted story and that his claim was not liable to be allowed as he did not approach the Tribunal with clean hands. The Tribunal also relied on the DRM report which stated that the case was of a self-inflicted injury. The Tribunal therefore held that the appellant was not entitled for compensation as self-inflicted injuries are excluded from the purview of untoward incidents. The O.A. was therefore dismissed.

5. Heard the learned counsel for the appellant and the learned Senior Central Government Counsel for the respondent.

6. Learned counsel for the appellant contended that the appellant, a young man sustained serious injuries in the incident and both legs were amputated. He has become permanently disabled on account of the accident. The learned counsel submitted that the version of the appellant in his application for compensation was in tune with the police report pertaining to the accident. The learned counsel submitted that the approach of the Tribunal was totally erroneous. He relied on the following judgments:-

1) Union of India (UOI) v. Prabhakaran Vijaya Kumar and Ors. [(2008) 9 SCC 527].

2) M.P.George v. Union of India [2024) ACC 109 (Ker.)].

3) Union of India (UOI) v. Rina Devi [(2019) 3 SCC 572].

7. The learned Senior Central Government Counsel argued that the Tribunal was correct in concluding that the appellant presented an incorrect version of the incident before the Tribunal. The learned Senior Central Government Counsel referred to the cross-examination and pointed out that he attempted to plead ignorance as to how the accident happened. He also referred to the evidence of RW1. The said witness deposed that the appellant was told not to attempt to board the train, but he did not listen. He submitted that the CCTV visuals coupled with the DRM report and evidence of RW1 would clearly show that the appellant presented a concocted version before the Tribunal seeking compensation. He hence pointed out that the Tribunal was not at fault in rejecting the O.A. He submitted that the appeal is without any merits.

8. It is clear that the appellant made an attempt to twist the actual facts and pleaded ignorance regarding the cause of the accident. Normally, such a conduct would disentitle a person approaching a judicial forum from obtaining reliefs. However, the Railway Claims Tribunal considers claims for compensation for injuries sustained in untoward incidents and accidents arising in the course of working of railway under the provisions of Chapter XIII of the Railways Act, 1989. The provisions under Chapter XIII are obviously beneficial provisions calling for liberal interpretation and approach. When the real factual circumstances revealed in evidence, though may be varying with the facts pleaded by the applicants, shows that the applicants are entitled for compensation, the Tribunal may adopt a benevolent approach keeping in mind the object of the beneficial provision.

9. In the case at hand, evidence on record show that the appellant had alighted from the train when it reached Surat Railway Station and he attempted to board the train again after the train started moving from the station. It is clear that the train had attained speed when the appellant tried to board the train. He missed to catch the handle on the door and fell down between the platform and the train. Therefore, though the version of the appellant was different the evidence would show that he sustained serious injuries resulting in amputation of both legs and permanent disablement while attempting to board the train. The Tribunal concluded that the inevitable conclusion was that it was a case of self-inflicted injury. I find that the said conclusion of the Tribunal cannot be sustained in view of the principles laid down by the Hon'ble Supreme Court in *Union of India v. Rina Devi* [(2019) 3 SCC 572]. The Hon'ble Supreme Court held as under:-

"25. We are unable to uphold the above view as the concept of "self-inflicted injury" would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on "no fault theory". We may in this connection refer to the judgment of this Court in *United India Insurance Co. Ltd. v. Sunil Kumar* [(2019) 12 SCC 398 : 2017 SCC OnLine SC 1443 : (2017) 13 Scale 652] laying down that plea of negligence of the victim cannot be allowed in claim based on "no fault theory" under Section 163-A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an "untoward incident" entitling a victim to the compensation and will not fall under the proviso to Section 124-A merely on the plea of negligence of the victim as a contributing factor."

The Tribunal was therefore in error in holding that the case of the appellant was one of self-inflicted injury.

10. Since there was evidence that would show that the appellant, a bona fide passenger, sustained injuries while attempting to board the train, the claim for compensation ought not to have been rejected by the Tribunal. It is to be noted

that the Hon'ble Supreme Court in *Union of India v. Prabhakaran Vijaya Kumar & others* [(2008) 9 SCC 527] held that the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger trying to enter into a train falls down during the process. The Hon'ble Supreme Court also held that it will not legally make any difference whether the deceased was actually inside the train when she fell down or whether she was trying to get into the train when she fell down. The Hon'ble Supreme Court held that in either case it amounts to an untoward incident as defined in Section 123(c) of the Railways Act as it amounts to an accidental falling of a passenger from a train carrying passengers.

11. In *M.P.George* (supra) this Court considered a similar case and the order rejecting the claim petition passed by the Tribunal was reversed and compensation was granted.

12. In view of the above discussion, I set aside the impugned order. For double amputation through leg or thigh, the compensation liable to be granted as per the schedule to Railway Accidents and Untoward accidents (Compensation) Rules, 1990 is Rs.8,00,000/-. Therefore, the Respondent shall pay a compensation of Rs.8,00,000/- to the Appellant. Same shall carry interest at the rate of 6% from the date of accident.

13. In this case the Tribunal has violated the provisions of the procedural rules in marking the documents. As noted in paragraph 3 above, the Tribunal marked the proof affidavit of the applicant as Exhibit A1 and that of RW1 as Exhibit R2. This practice is improper and contrary to the provisions of the Railway Claims Tribunal (Procedure) Rules, 1989. Rule 14 deals with filing of affidavit. The Rule is extracted hereunder:

"14. Filing of Affidavit—(1) The Tribunal may direct the parties to give evidence, if any, by affidavit.

(2) Notwithstanding anything contained in sub-rule (1), where the Tribunal considers it necessary for just decision of the case, it may order cross-examination of any deponent.

(3) Every affidavit to be filed before the Tribunal shall be in Form VIII."

14. Procedure regarding marking of documents is provided under Rule 15C. The said provision reads as under:

"15-C. Marking of Documents.—The documents filed by the applicant shall be marked as "A" series and the documents filed by the respondent shall be marked as "R" series and the Tribunal exhibits shall be marked as "C" series."

15. In view of the above extracted provisions, only the documents filed by the parties shall be marked as provided under Rule 15C. Documents filed by the applicants shall be marked as "A" series and those filed by the respondent shall be marked as "R" series. Tribunal exhibits are to be marked as "C" series.

Affidavits filed in lieu of chief examination, commonly depicted as proof affidavits are not documents filed by the parties. They are filed under Rule 14. Therefore, such affidavits shall not be marked considering them like documents mentioned in Rule 15C. The Tribunal shall take note of the proper procedure as explained above and meticulously follow the other provisions of the Railway Claims Tribunal (Procedure) Rules, 1989 also.

16. It is noticed that the copies of the judgments of the Tribunal are issued without any attachment showing the details of witnesses examined and documents marked. While considering appeals arising from the judgments of the Tribunal it becomes difficult to find out whether the documents available on record were properly marked or not. In some cases, it was noticed that documents not marked in evidence were also referred to in the judgment and were made part of the records. Narration contained in the judgment regarding the evidence adduced during trial in many cases is not comprehensive and this complements to the confusion. Though there is no specific provision in the Railway Claims Tribunal (Procedure) Rules, 1989 regarding attaching the details of witnesses examined and documents marked to the judgments, it is desirable to add the same to all judgments issued by the Tribunal. It is noted that a Division Bench of this Court had directed the Registry of this Court in OP(KAT)No.95 of 2017 not to accept Original Petitions arising from the orders of the Kerala Administrative Tribunal, if the impugned orders did not contain appendix. Rule 134 of the Criminal Rules of Practice in Kerala provides for annexing such details to the judgments of the criminal courts. Rule 181 (1) of the Civil Rules of Practice in Kerala is the identical provision applicable to civil courts. A learned single Judge, in *Subramanian v. Mohandas* [2021 (2) KLT 249] directed the Motor Accident Claims Tribunals to follow Rule 181 of the Civil Rules of Practice and to incorporate proper appendices to all orders. Though there is no similar statutory provision applicable to the Railway Claims Tribunal, in view of the issues noted above it is appropriate to direct the Railway Claims Tribunal, Ernakulam Bench to incorporate proper appendices to all judgments. Hence, in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, the Registry of the Railway Claims Tribunal, Ernakulam Bench is directed to annex details of the witnesses examined and documents filed and marked by the parties and also the other documents marked by the court in evidence if any, to all its judgments. Registry to communicate this order to the Registrar of the Tribunal.

This appeal is disposed of as above.