

(2001) 05 MP CK 0042
In the Madhya Pradesh High Court

Union of India (UOI)

APPELLANT

Vs

Mulko Bai

RESPONDENT

Date of Decision : 16-05-2001

Acts Referred:

Constitution of India, 1950 — Article 21
Railway Claims Tribunal Act, 1987 — Section 13, 23, 24
Railways Act, 1989 — Section 123, 124A, 154, 159, 175

Citation : (2003) 3 ACC 743

Hon'ble Judges : Rajeev Gupta, J;Arun Mishra, J

Bench : Division Bench

Judgement

Arun Mishra, J.—Union of India has filed the present appeal u/s 23 of the Railway Claims Tribunal Act, 1987, aggrieved by the award dated 24.3.1999 passed by the Railway Claims Tribunal, Bhopal in O.A. No. 424 of 1997.

2. The Claims Tribunal has awarded a sum of Rs. 1,80,000/- as compensation to the respondent-claimant for amputation of her left arm above elbow. Mulko Bai had met with an accident on 17.5.1991 when she fell down from a train at Sanchi Railway Station in between Beena and Bhopal, train overran her resulting in the said injury. The case has a chequered history. The claim petition was filed before the Claims Tribunal on 25.1.1993. It appears that the Claims Tribunal vide order dated 14.12.94 ordered the claim petition to be transferred to the Civil Court for its trial. The case was transferred to the civil Court for trial before the 4th Addl. Sessions Judge. Later on an objection was raised by the Union of India about the jurisdiction of Civil Court to try the case based on Section 13 of the Railway Claims Tribunal Act, 1987. The 4th Addl. Sessions Judge, came to the conclusion on 18.9.1997 that the case is triable by Railway Claims Tribunal only, hence, the case was transmitted to the Railway Claims Tribunal. The Claims Tribunal has passed an award which has been assailed in the present appeal.

3. The claimant alleged that when she was going from Sagar to Indore, she had completed journey from Sagar to Beena and at Beena Station, she boarded

another train for going to Bhopal and when the train reached Sanchi Station, the train started without giving any whistle or signal and due to hue and cry raised and sudden boarding of the train by so many persons she fell down from the train and her left arm above elbow was overrun by the train, and was amputated. She was taken to Bhopal for treatment by G.R.P. Police, Sanchi after making entry in Rojnamcha (Daily Diary), at serial No. 3147 on 17.5.1991. Claimant claimed a sum of Rs. 1,00,000/-.

4. In the reply, the Union of India denied the accident itself for want of knowledge and contended that no such accident took place at Sanchi Station on 21.5.1991 as alleged and the claimant is not entitled for the compensation claimed. The injured was not a valid passenger. She had not purchased ticket for the journey, hence, Railways could not be held liable to pay compensation.

5. Before the Railway Claims Tribunal, the affidavits of Mulko Bai and Mitthulal Ahirwar were filed and they were cross-examined. On behalf of Railways also, Rakesh Bhardwaj, Station Supdt., Sanchi R.W. 1, Vinod Kumar Mishra, Asstt. Station Master, Vidisha, R.W. 2 and Anoop Kumar Verma, Pointsman "A" Grade, Sanchi Railway Station, R.W. 3, affidavits were filed who were cross-examined also.

6. In the present appeal, learned Counsel for the Railways Mr. S.P. Sinha has assailed the award on merits as well as on the basis of jurisdictional competence of the Claims Tribunal to pass the award. His submission is that the case was not triable before Railway Claims Tribunal hence the award is a nullity. He has further submitted that on the date of the accident which is 17.5.1991, Section 124A of Railways Act, 1989 was not on book of statute and was subsequently inserted in the Act with effect from 1994 by the Railways (Amendment) Act, 28 of 1994. It was not the case of untoward incident, covered u/s 124A. Hence, the Claims Tribunal has erred in law in invoking the provisions of Section 124A to find it an untoward accident. He further submits that it not being untoward incident on date of occurrence. The case was wrongly transferred by the Civil Court to the Claims Tribunal and the provision of transfer of cases to the Railway Claims Tribunal contained in Section 13 of Railway Claims Tribunal Act, 1987 is not attracted to the case. He further submits that on merits the negligence of the Railways has not been established. The injured was not carrying ticket at the time of accident and as such the Railways could not be saddled with the responsibility of person who was not a valid passenger in the train in the absence of purchasing a ticket.

7. The learned Counsel for the respondent has resisted the submission raised by the learned Counsel for the appellant and he has supported the award passed by the Claims Tribunal and submits that just compensation has been awarded by the Claims Tribunal which does not call for interference in the present appeal.

8. First we take up for consideration the question whether the Railway Claims Tribunal had no jurisdiction to pass the award. Section 13 of the Railway Claims

Tribunal Act, 1987, lays down that the Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any Civil Court or a Claims Commissioner appointed under the provisions of the Railways Act. Sub-section (1-A) was inserted in Section 13 of the Railway Claims Tribunal Act, 1987, by Railways (Amendment) Act 28 of 1994, which makes it clear that the Claims Tribunal shall also exercise, on and from the date of commencement of the provisions of Section 124A of the Railways Act, 1989, all such jurisdiction, powers and authority as were exercisable immediately before that date by any Civil Court in respect of claims for compensation now payable by the railway administration u/s 124A of the said Act or the rules made thereunder. Section 13 of Railway Claims Tribunal Act, 1987 reads as under:

13. Jurisdiction, powers and authority of Claims Tribunal.--(1) The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any Civil Court or a Claims Commissioner appointed under the provisions of the Railways Act.

(a) relating to the responsibility of the railway administration as carriers under Chapter VII of the Railways Act in respect of claims for-

(i) compensation for loss, destruction, damage, deterioration or nondelivery of animals or goods entrusted to a railway administration for carriage by railway:

(ii) compensation payable u/s 82-A of the Railways Act or the rules made thereunder; and

(b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.

(1-A) The Claims Tribunal shall also exercise, on and from the date of commencement of the provisions of Section 124A of the Railways Act, 1989, all such jurisdiction, powers and authority as were exercisable immediately before that date by any Civil Court in respect of claims for compensation now payable by the railway administration u/s 124A of the said Act or the rules made thereunder.

(2) The provisions of Railways Act, 1989 and the rules made thereunder shall, so far as may be, be applicable to the inquiring into or determining, any claims by the Claims Tribunal under this Act.

9. Section 24 of the Railway Claims Tribunal Act, 1987, makes it further clear that every suit, claim or other legal proceeding (other than an appeal) pending before any Court, Claims Commissioner or other authority immediately before the appointed day, or, as the case may be, the date of commencement of the provisions of Sub-section (1-A) of Section 13 being a suit, claim or proceeding the cause of action whereon it is based is such that it would have been, if it had

arisen after the appointed day, or, as the case may be, the date of commencement of the provisions of Sub-section (1-A) of Section 13 within the jurisdiction of the Claims Tribunal, shall stand transferred on that day or, as the case may be, date to the Claims Tribunal. Section 24 of the Railway Claims Tribunal Act, 1987 reads as under:

24. Transfer of pending cases.--(1) Every suit, claim or other legal proceeding (other than an appeal) pending before any Court, Claims Commissioner or other authority immediately before the appointed day, or, as the case may be, the date of commencement of the provisions of Sub-section (1-A) of Section 13 being a suit, claim or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after the appointed day, or, as the case may be, the date of commencement of the provisions of Sub-section (1-A) of Section 13 within the jurisdiction of the Claims Tribunal, shall stand transferred on that day or, as the case may be, date to the Claims Tribunal.

(2) Where any suit, claim or other legal proceeding stands transferred from any Court, Claims Commissioner or other authority to the Claims Tribunal under Sub-section (1).

(a) the Court, Claims Commissioner or other authority shall, as soon as may be after such transfer, forward the records of such suit, claim or other legal proceedings to the Claims Tribunal;

(b) the Claims Tribunal may, on receipt of such records, proceed to deal with such suit, claim or other legal proceeding, so far as may be, in the same manner as an application, from the stage which was reached before such transfer or from any earlier stage or de novo as the Claims Tribunal may deem fit.

10. From a bare reading of Section 24 read with Section 13 of the Railway Claims Tribunal Act, 1987, it is transparent that if case is pending before a Civil Court which would have been covered by Section 124A of the Railways Act, 1989, had the said provision being in force at the relevant time when the accident took place, such case shall stand transferred to the Railway Claims Tribunal. In other words, the cases of all untoward incidents pending before any Court, Claims Commissioner or authority immediately before appointed day shall stand transferred if it had arisen after the appointed day or the date of commencement of the provision of Sub-section (1-A) of Section 13, is within the jurisdiction and is triable by the Claims Tribunal.

11. In view of the allegations made in the claim petition and the facts found by the Claims Tribunal, Section 124A of the Railways Act, is clearly invocable for the limited purpose of deciding the jurisdiction of the Railway Claims Tribunal Act, 1987 with the interaction and mutual aid of interpretation of Section 13 read with Section 24 of the Railway Claims Tribunal Act, 1987, without meaning to decide that Section 124A of the Railways Act, 1989 is retrospective in operation or not, but, so far as jurisdiction of the Tribunal is concerned, provisions of Section 13(I-A) and Section 24 of the Railway Claims Tribunal Act, 1987 are amply clear and

we have no hesitation to come to the conclusion that it was only the Railway Claims Tribunal who was having the jurisdiction in view of Section 13(I-A) read with Section 24 of the Railway Claims Tribunal Act, 1987 to give a trial and pass an award in the instant case and the case was rightly transferred by the Civil Court. In our opinion, Section 124A of Railways Act has to be read in conjunction with, Section 13 and Section 24 of Railway Claims Tribunal Act so as to find out whether accident would be an untoward accident, had it taken place after commencement of Section 124A of Railways Act as amended in 1994 as all such cases pending irrespective of date of their taking place stand transferred to Railway Claims Tribunal.

12. For yet another reason we reject the first submission raised by learned Counsel for the appellant, Union of India, as it cannot be allowed to raise such an objection as initially the case was filed before the Claims Tribunal. It appears that when the case was transferred to the Civil Court for trial in accordance with law, an objection was raised by Union of India to the effect that the case should be transferred to the Railway Claims Tribunal. Keeping in view Section 13 of Railway Claims Tribunal Act, the objection was sustained. The case was transferred on the prayer of the Railways to the Railway Claims Tribunal which has passed the award. It does not now lie with the appellant to raise such an objection. As the case has been transferred at the behest of the Railways, for this reason we are not inclined to interfere with the award on this ground. In the case of G.M., N.F. Railway Vs. Jitendra Shah and Others, wherein the case was filed before the Motor Accident Claims Tribunal, an objection was raised that since the Railways was solely responsible for the accident as it happened on a manned level crossing, which was not closed, when the bus crossed the same and was hit by running train. Hence the case was triable exclusively by the Railway Claims Tribunal. Their Lordships in para 3 observed as under:

(3) Second reason is that, the victims of this accident are entitled to compensation from the Railways at any rate, and compensation has been awarded to them and we are not disposed to disentitle them of the fruits of the award passed solely on the ground that they should have approached a different venue altogether. This is not a case which calls for a special leave to be granted in the aforesaid circumstances.

13. Besides, as already mentioned above, we are of the view that the case was triable by Railway Claims Tribunal after insertion of Sub-section (1-A) in Section 13 of the Railway Claims Tribunal Act, 1987.

14. The second question canvassed by the learned Counsel for Union of India is that Section 124A of the Railways Act, 1989 has been applied so as to find it a case of untoward incident, to fasten the liability on Railways by the Claims Tribunal whereas the provision of Section 124A of the Railways Act, 1989, is not retrospective in its operation. We need not dilate our attention on the question as it is not necessary for us to decide the question whether the definition of "untoward incident" was inserted in Section 123(c) of the Railways Act, 1989 by

the Amendment Act 28 of 1994 it would apply to an accident which took place in 1991. We are resting our decision on the breach of common law duty and other duties under rules of taking reasonable care which lies upon all carriers including the Railways. Their Lordships of the Supreme Court in the case of P.A. Narayanan Vs. Union of India (UOI) and Others, laid down thus:

(9) Mr. N.N. Goswami, learned Counsel appearing for the railway administration does not dispute that under the new Act, there is statutory liability on the Railways but submits that the 1989 Act does not have any retrospective operation. We do not wish to go into that question in this case and leave that issue open. We are resting our case on the breach of common law duty of reasonable care, which lies upon all carriers including the Railways. The standard of care is high and strict. It is not a case where the omission on the part of the railway officials can be said to be wholly unforeseen or beyond their control. Here there has been a complete dereliction of duty which resulted in a precious life being taken away, rendering the guarantee under Article 21 of the Constitution illusory. Had the deceased not pulled the alarm chain with a view to stop the train, the position might have been different. Liability in this case is fault based. Such a liability is not inconsistent with the scheme of the Railways Act of 1890 either. (Refer Section 80 with advantage). The proof of a fault in this case is strong and Mr. Goswami has not rightly challenged it either. To relegate the appellant to approach the Railway Claims Tribunal or the Civil Court, as suggested by Mr. Goswami, does not appear to us to be proper. More than 17 years have already gone by since the occurrence and, therefore, it appears appropriate to us to give a quietus to this litigation now.

15. There are certain common law duties as well as the duties imposed under the statute. The Apex Court in Union of India (UOI) Vs. United India Insurance Co. Ltd. and Others, has held that the claimants are entitled to sue for breach of common law duty or statutory duty. The Railways carry an inherently dangerous activity of running express trains and have to use certain care and caution at the station while the trains are stopped for halt and started for the further destination. The Railways are aware that their Activity was likely to cause accidents, unless it was carried with all reasonable care. The liability is based on perilous nature of the operation. Same is the principle extracted from the decision of Privy Council in Commissioner, for Railways v. McDermott (1966) 2 All ER 162 and Donoghue v. Stevenson (1932) AC 562. Particularly at station precautions must be taken by the Railways to see that the train is not started abruptly.

16. Railway authorities are under a duty to use reasonable care and skill in maintenance of their premises, including their carriages, the provision and maintenance of railway tracks, the provision of a proper system of signalling and the carrying on of their Activities effectively so as to prevent accidents. They are also liable for the negligence of the signalmen and others operating the system and of the drivers and others in the driving and management of their trains.

Charles worth and Percy in their Treatise on Negligence, 7th Edn., at p. 637, have observed that the railway authorities are bound to provide reasonable means for passengers to alight at the station where their trains stop. If the platform provided is either too high or too low having regard to the height of the carriage, it is evidence of negligence on the part of the railway authorities in not providing reasonable facilities for alighting. Much will depend on the circumstances in deciding whether or not there has been such an invitation to alight. Regarding the stopping and starting of trains the authors (Charlesworth & Percy) say that trains must be started and stopped with reasonable care. If a train is started with a sudden jerk as a result of which a passenger is injured, there is evidence of negligence. It is further stated that a violent and unusual stopping or starting of the train which occasions injury to a passenger is prima facie evidence of negligence. In such circumstances the railway authorities will have "to show both that they acted reasonably and properly in suddenly stopping the train, and also that the cause which led to the necessity of stopping the train was not brought about by, any negligence upon their part".

17. In Ulahannan Rajan Vs. Union of India (UOI), the deceased was getting down from the compartment with child in her hand. That compartment stopped short of platform. No warning or signal was given before the train started. Level of platform was also not raised after converting rail to broad gauge, It was held that the accident was due to negligence on the part of railway servants.

18. House of Lords in Metropolitan Railway Co. v. Delaney (1921) All ER 301, considered a case where a passenger had entered the carriage and had reached the vestibule immediately inside it and was approaching the seating accommodation when the train started suddenly depriving him of his balance and throwing him against the back of the carriage. He put out his arms in an attempt to save himself from falling when the sliding door of the carriage set in motion by the starting of the train closed upon his right hand crushing and injuring it. The questions which arose firstly, whether the train was set suddenly in motion? and secondly,- whether it was set in motion without warning? and when it was so found, the negligence could be inferred and the award was made.

19. In Hare v. British Transport Commission (1956) 1 All ER 578, when the plaintiff had gone to the railway station to see her husband off, as the train moved off she remained standing close to the train facing the direction in which it was moving and waving to him. After the train had travelled some 60 yards she was struck from behind by the open door of the guard's van. She had not moved appreciably from the position she was in when the train started. It was held that the defendants were negligent because the door of the guard's van should not have been allowed to remain open while the train travelled so great a distance and plea of contributory negligence of the claimant, was negated.

20. There are certain statutory duties enjoined in the rules framed under the Indian Railways Act for the guidance of railway servants with respect to all open lines of Railways in India. Rule 115 provides that the guard incharge of a train

shall not give the signal for starting the train from a station at which it has stopped until he has received permission from the Station Master. The guard shall not give the signal for starting until he is satisfied himself that no passenger is getting into or out of the train, that no person is riding outside a carriage, and that, except in accordance with special instructions, no person is travelling in any compartment or vehicle not intended for the carriage of passengers. A driver shall not start the train from a station without the authority to proceed and until the guard incharge of the train has given the signal to start under Rule 120. It is the further duty of the driver to start and stop the train carefully and without a jerk, as stipulated under Rule 130. It is provided in Rule 131 that the driver shall always sound the engine whistle, except under special instruction, before putting an engine in motion, when entering a tunnel and at such other times as may be prescribed by special instructions. The non-observance of rules means and gives rise to action in tort.

21. Section 154 of the Railways Act, 1989 provides if any person in a rash and negligent manner does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon any railway, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. Section 159 of Railways Act, 1989 lays down that if any driver or conductor of any vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police officer, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both. There are other provisions contained in the Act ensuring the safety of the passengers. Section 175 provides if any railway servant, when on duty, endangers the safety of any person (a) by disobeying any rule made under this Act; or (b) by disobeying any instruction, direction or order under this Act or the rules made thereunder; or (c) by any rash or negligent act or omission, he shall be punishable with imprisonment for a term, which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

22. In the instant case the claimant has lost her left arm above elbow in the accident. The police investigation report dated 17.12.1991, Exh. P-3, discloses that the claimant accidentally fell down from the passenger train near Sanchi Railway Station, entry in General Diary Exh. P-1, clearly records about the accident in question and the claimant suffering an injury. Exh. P-3 also records that the claimant was praying for some compensation as she had suffered an injury in the accident. A letter Exh. P-4 written by Station House Officer, G.R.P., Bhopal to Collector, District Bhopal on 13.1.1992 that the claimant had suffered injury in the train accident while she was travelling from Beena to Bhopal in the passenger train. Her left hand had to be amputated owing to the injury suffered. She was sent to Hamidiya Hospital for treatment, as such she should be granted financial assistance as the claimant is a poor labourer. Copy of the said letter of recommendation was also endorsed to the claimant Mulko Bai.

23. Learned Counsel for the Union of India has made an attempt to submit that no such accident took place at Sanchi Railway Station which he submits on the strength of statement of Rakesh Bhardwaj, Station Supdt., Sanchi, who has stated that no such accident took place on 21.5.1991. But, act remains that the said date was amended to 17.5.1991 in the claim petition and the witness has admitted in para 7 of his cross-examination that there is an entry about cutting of hand of old lady at 6 O'clock on 17.5.1991. RW 2 Vinod Kumar Mishra, Assistant Station Master, has also stated that he worked at Sanchi Station from March, 1991 to July, 1992. He was informed by the Pointsman after the train had left that one old woman lost her hand and he had arranged for her transport to the hospital on a stretcher. R.W. 3 Anoop Kumar Verma, Pointsman, had also stated that the woman had suffered an accident. Thus, it is established beyond doubt that the claimant suffered injury while she was travelling in 1356 Up passenger train from Beena to Bhopal.

24. The learned Counsel submits that the finding of the Tribunal that the claimant was carrying a ticket is bad in law as R.W. 2 Vinod Kumar Mishra has stated that he was advised by R.W. 3 Anoop Kumar Verma, Pointsman, that the claimant had no ticket. The witness has admitted in cross-examination that he did not personally enquire from her about the ticket and when he had attended the claimant she was unconscious and had to be carried on stretcher. RW 3 Anoop Kumar Verma has stated that he met the woman and enquired about her travelling and ticket. He was told that she was not having a ticket and he placed the woman on stretcher with the help of other persons. The claimant has stated that her entire luggage was left in the train itself owing to sudden start of train, she fell down from the train. The deposition of Anoop Kumar Verma does not inspire confidence as the woman was unconscious at that time and it cannot be safely assumed that any enquiry about the ticket would be made from her when her condition was precarious and she was unconscious. Moreover, no attempt was made on behalf of Railways to retrieve the luggage which the claimant was carrying in the train and which was carried away in the train itself. The claimant has clearly deposed that she had purchased the ticket. She has stated that she had bought the ticket for journey for Rs. 16/-. She lost the luggage including the ticket. She had kept the ticket in the bag, which is not uncommon. She was taken to the hospital and she was sitting in the train near the entrance gate of the coach. She has stated that there was heavy rush at Sanchi Station and she did not get down from the train at Sanchi Railway Station. It is further mentioned in her affidavit that the train started all of a sudden and there was a stampede for boarding and getting down from the train, due to pushing, she was made to fall from the train. Mitthulal Ahirwar has stated that his mother-in-law Mulko Bai came to Beena and it was he who had purchased the ticket for her travel of second class and she was made to sit in the general compartment of the passenger train. Fare of Rs. 16/- was paid. We find that deposition of the claimant supported by Mitthulal Ahirwar is reliable as against the version of Anoop Kumar Verma, R.W. 3 and Vinod Kumar Mishra, RW 2, deposition of whom

is of no avail as it is based on hearsay.

25. We affirm the finding of the Tribunal that the claimant was carrying the ticket and had purchased it for Rs. 16/- for going from Beena to Bhopal.

26. We find that the train was started all of a sudden. It is clear that the train was started without giving any whistle or signal, there was heavy rush of the persons boarding and getting down from general compartment of the train. Due to sudden start of the train, there was stampede. The claimant who was sitting near the door was pushed and consequently she fell down. Thus, we find that there has been breach of observance of precautions enjoined under Rule 115 that the guard incharge of the train shall not give the signal for starting the train from a station at which it has stopped until he is satisfied himself that no passenger is getting into or out of the train. Further a duty is on the driver to start the train carefully without any jerk. It also does not appear that any whistle was blown by the driver. The deposition of the Railways witnesses is totally silent about that part and as to care and precautions they are totally silent. The driver has not been examined in the case nor the guard has been produced which could be the best witnesses to rebut the version of the claimant. Thus, it is found that the train was started all of a sudden without any due warning by giving whistle and without seeing that the passengers were getting down or boarding in the train. Thus, negligence of the Railways is clearly established in the instant case due to non-observance of the rules framed under the Railways Act and even otherwise it appears that the claimant has suffered injury as the train was started before the people could get down and it was clearly a case of non-observance of the duties of the Railways.

27. The learned Counsel for the Railways submits that the provisions of Section 124A were inserted in the year 1994 and the Tribunal has erred in law in applying the provisions and to bring the case into one of untoward incident and section is not retrospective. u/s 124A, when in the course of working in a railway an untoward incident occurs, 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 the dependant of a passenger who has been killed 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, or injury, to a passenger as a result of such untoward incident except the categories of suicide or attempted suicide, self-inflicted injury, own criminal act, any act committed in a state of intoxication or insanity, any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident. For the purpose of this section "passenger" means a railway servant on duty and also a person who has purchased a valid ticket for travelling, by a train carrying passengers.

28. In view of the above finding that there was breach of statutory duty and the

action can be based on breach of common law duty and breach of statutory duty, hence, it is not necessary for us to go into the question of retrospectively of Section 124A. We are not deciding the application of the same on the date of accident as it is not necessary to go into the question in the instant case.

29. Next question is about the quantum of compensation. The amount of compensation is awarded as per Item No. 2 of Part III of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 and the amount has also been limited. Hence, it does not call for any interference looking to the nature of the injury suffered by the claimant. She has been rendered unfit to perform the work of labourer which she was doing earlier.

30. Last question raised is about limitation. Claim petition was filed on 21.5.1993. The incident took place on 17.5.1991. The claim when it was filed which was held cognizable by the Civil Court, the case was transferred to Civil Court on 14.12.1994 and it is not the argument of learned Counsel that the claim was barred by limitation before the Civil Court. He has relied on the limitation of one year to present the case before the Railway Claims Tribunal. Simply by the fact that the case was ultimately transferred owing to amendment made in Section 13 of the Railway Claims Tribunal Act the case cannot become barred by limitation. The provision of limitation of one year is not applicable to cases transferred to the Claims Tribunal, only requirement is whether they were presented within limitation before Civil Court before transfer to Tribunal. Moreover, the condonation application was filed with abundant caution and that has been accepted by the Claims Tribunal, we are of the opinion that the claim petition was presented within limitation. Thus, challenge to the claim on the ground of limitation is also rejected.

31. In the result, we find no merit in the appeal. Same is dismissed. Costs on parties.