

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

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Gyan Prakash Tewari - Hon'ble Member Judicial
G. John Prasad - Hon'ble Member Technical

OA II (u) 292/2015

Date of filing : 24.09.2015

Date of decision : 10.11.2023.

Ch. Ravikumar, S/o Ch. Srinivasarao,
Aged about 21 years, Occ: B.Tech 3rd year Student,
R/o. D.No.4-123-2, Peddapalam Colony,
Peddapalli Village and Post,
Elamanchili Mandal, Visakhapatnam District,
Pin - 531055

Applicant.

Versus

Union of India represented by
The General Manager,
~~East Coast Railway, Bhubaneswar.~~

Respondent.

South Central Railway, Secunderabad

Claim for Rs. 6,80,000/- (With interest)

Shri N.P.Rao - Ld. Counsel for Applicants.
Shri S. Ramakrishna - Ld. Counsel for Respondent

JUDGEMENT

1. This claim application is filed by the injured applicant himself under Section 16 of RCT Act, 1987 read with Section 124-A and 125 of Indian Railways Act, 1989 seeking compensation to the tune of Rs.6,80,000/- with interest from respondent railway, for the injury occurred in an untoward incident on dated 08.07.2015.

2. It is a case of Injury. As per claim application, injured Ch. Ravikumar is a resident of Peddapalam Colony, Peddapalli Village and post, Elamanchili Mandal, Visakhapatnam District pursuing B.Tech 3rd year at Simhadri Engineering College in Sabbavaram and also attending Computer classes at Visakhapatnam for "Autocad Computer Course". Usually he returns home to

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Elamanchili by Rayagada-Vijayawada passenger with a travel authority of 2nd class monthly season ticket to travel between Elamanchili and Visakhapatnam. On 08.07.2015, with a view to return to Elamanchili, he boarded in general compartment of Train No.57272 Rayagada – Vijayawada Passenger from Visakhapatnam Railway station holding 2nd class monthly season ticket bearing No.C-32723909 valid between Elamanchili and Visakhapatnam having a validity from 26.06.2015 to 25.07.2015, I.D. Ticket No.C-32723908 and left. During journey hour, as there was a heavy rush of passengers in the compartment, he suddenly slipped and fell down accidentally from the said running train on the same day nights hours on 08.07.2015 in between Thadi and Anakapalle Railway stations just before reaching Anakapalle Railway station due to speed, jolts and sudden jerks of the said running train and as a result he was dragged by train, his left leg was severely crushed below the knee, right leg foot severely crushed and right thigh bone was fractured. The train did not stop and after sometime he was shifted by 108 ambulance to NTR Govt. Hospital, Anakapalle by concerned on duty night petrolman and Railway staff of Anakapalle. Again, he was shifted from there to King George Hospital, Visakhapatnam for better treatment. During treatment, his left leg was amputated below the knee, little toe amputated on right leg, total skin and flesh was lost on right foot and steel rod was inserted on right thigh at the fracture of thigh bone. Again, he was shifted to Sagar Durga Hospital, Visakhapatnam on 13.07.2015 for further treatment and took treatment till 25.07.2015 for the injuries sustained. As per applicant, he was travelling with a valid train journey ticket and got injured during journey hour due to untoward incident, his left leg and little toe on right leg were amputated, therefore, he is entitled to get compensation from respondent Railway.

3. The Respondent Railway filed a detailed written statement along with the report of Divisional Railway Manager denying all the averments made in the

claim application. It is further submitted by the Respondent that there is no cause of action for applicant as the claim does not fall within the ambit of Section 123 (c)(2) or 124-A of Railways Act, 1989. As per Respondent Railway, if the fall is true, co-passengers would have stopped the train by pulling alarm chain. None is the eye witness of the incident, neither injured is a bonafide passenger. Hence, claim must be dismissed.

4. From the pleadings, following issues were framed on 30.11.2016 :

- 1) *Whether the Applicant was a bonafide passenger of the Train and sustained injuries as a result of an untoward incident?*
- 2) *Whether the Applicant is entitled to claim the compensation as prayed for and to what relief?*

5. In support of the claim, Injured has examined himself as AW.1 and filed his affidavit as examination-in-chief and to prove the documents, which are filed and marked Exhibits as under:-

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|---|---|-----------|
| 1) Monthly season ticket along with ID card | - | Ext. A.1. |
| 2) Attested copy of message from SS/AKP | - | Ext.A.2. |
| 3) Attested copy of MLC intimation | - | Ext.A.3. |
| 4) Attested copy of Injured Statement | - | Ext.A.4. |
| 5) Entire medical record (Discharge Summary) | - | Ext.A.5. |
| 6) Photocopy of Disability certificate | - | Ext.A.6. |
| 7) Photocopy of Rail concession certificate | - | Ext.A.7. |
| 8) Study Certificate | - | Ext.A.8. |
| 9) Original Photograph of Applicant showing the injuries- | - | Ext.A.9. |

During deposition as AW.1, injured applicant has stated that he was pursuing B.Tech 3rd year at Simhadri Engineering College in Sabbavaram and also he was attending computer class for 'Auto Cad Computer Course' at Visakhapatnam. He used to travel from Visakhapatnam to Elamanchili by 2nd monthly season ticket. He started his journey from Visakhapatnam Railway station in the night hours of 08.07.2015 by boarding Train No.57272 Rayagada – Vijayawada passenger holding a 2nd class monthly season ticket bearing No.C-32723909 pertaining to Elamanchili – Visakhapatnam route with validity from 26.06.2015 to 25.07.2015, ID.Ticket No.C-32723908. During his journey hour, because of there was a heavy rush of passengers in the compartment, he

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slipped and fell down accidentally from above running train in the night hour on 08.07.2015 just before reaching Anakapalle Railway station between Thadi and Anakapalle Railway stations due to speed, jolts and sudden jerks of the said running train in the result he was dragged by train, his left leg was severely crushed below the knee, right leg was severe crushed, right thigh (Femur Bone) was fractured. Although train did not stop and left the place, but after some time Railway station staff and officials attended the spot, rendered first aid, took the identity and train journey ticket and accident related other relevant particulars. Further, they shifted him to NTR Govt. Hospital, Anakapalle through 108 Ambulance. He was shifted from there to King George Hospital for better treatment where his statement was recorded by Railway Police. He further deposed that he was under treatment at Sagar Durga Hospital, Visakhapatnam from 12.07.2015 to 25.07.2015 and at Amma Hospital from 25.07.2015 to 02.08.2015. During treatment, his left leg and little toe of right leg were amputated due to injury occurred during train journey hour.

6. The Respondent Railway has not adduced any oral evidence but filed DRM report which is marked as Ext.R.1.

7. Heard both sides Counsels and perused the case file. On consideration of materials available on record and the contentions of the Ld. Counsels appearing for both the parties, issues wise findings are recorded as follows:-

FINDINGS

Issue No.1: *Whether the Applicant was a bonafide passenger of the Train and sustained injuries as a result of an untoward incident?*

8. This is an injury case in which injured himself is Applicant. As per claim, injured applicant Ch. Ravikumar, a 3rd year B.Tech Student, in addition to attending Engineering college at Sabbavaram, he was also attending Computer classes on Autocad at Visakhapatnam. He used to travel from home at

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Elamanchili to Visakhapatnam and back by train by using 2nd class monthly season ticket in Elamanchili – Visakhapatnam route. With a view to return to Elamanchili from Visakhapatnam, Applicant boarded in general compartment of Train No.57272 Rayagada – Vijayawada Passenger holding valid 2nd class monthly season ticket. As per Applicant, during journey hour due to heavy rush of passengers and sudden jerks and jolts of the train, he accidentally fell down from running train just before reaching Anakapalle in between Thadi and Anakapalle Railway stations. As a result, he was dragged by train and sustained severe crush injury to his left leg below the knee, crush injury to right leg and right thigh was fractured. Police personnel and Railway staff called 108 ambulance and admitted injured to NTR Govt. Hospital, Anakapalle. As he was in serious condition, he was shifted to King George Hospital, Visakhapatnam and again from there to Sagar Durga Hospital, Visakhapatnam. He obtained treatment at Amma Hospital also from 25.07.2015 to 02.08.2015. During treatment, his left leg was amputated leaving a stump of 5 inches below the knee and amputation of little toe on right foot. As per Applicant, at the time of incident, he was travelling with a valid train journey ticket, therefore, he was bonafide passenger and entitled to get compensation. In its written statement, Respondent has denied about the valid journey ticket available with Applicant and it is further stated that there is no eye witness to the incident.

9. To prove the bonafide status of the Injured Applicant, Original 2nd class season ticket bearing No.C32723908 with ID No.E1ENBAI038 for one adult Mr.Ch. R. Kumar, aged 21 years in route Ellamahchili and Visakhapatnam having a validity from 26.06.2015 to 25.07.2015 is filed and available with case file as Ext.A-1. The injured Applicant was examined during statutory enquiry in which he stated that he was travelling by Train No.57272 Rayagada – Vijayawada passenger holding a monthly season ticket pertaining to route Elamachili –

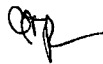
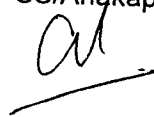
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Visakhapatnam and back. The veracity of the season journey ticket filed and proved by Injured Applicant was not contradicted or disputed by the Respondent Railway. It is pertinent to mention that although Respondent has not admitted specifically in its Written Statement regarding availability of the ticket with Injured but voluminous evidence, along with original season train journey ticket available with case file proves that Injured Applicant was travelling with a valid train journey ticket.

10. So far as argument advanced by the Railway regarding bonafide status is concerned it is stated that there is no eye witness to alleged fall of the injured applicant from Train No.57272 Rayagada Passenger, hence he was not a bonafide passenger. The injured was examined during DRM enquiry and he categorically explained about the incident and the train in which he travelled and there nothing is available from Respondent Railway to disprove the version of the injured Applicant. In our view, above argument has no substance, because it is contradictory and against the provision of law. As per Section 124-A of the Railways Act, Explanation-2 states that " **'Passenger'** includes a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of any untoward incident". Hence, it is held that applicant injured was travelling with a valid train journey ticket and at the time of accident, he was a bonafide passenger.

11. So far as argument advanced by Respondent Railway is concerned in which it is stated that Railway Guard has specifically denied regarding any incident happened in between Visakhapatnam to Rajahmundry. But evidence available with case file proves that after the incident K.Srinivasu, Railway Patrolman has found the Injured Applicant at Down track at Km.No.746/28A and he informed about the incident to SS/Anakapalle. SS/Anakapalle in turn has

given written information to GRP Duvvada vide message Number AKP/Injured/9/1 dated 09.07.2015 which is Ex.A-2. As could be seen from DRM statutory report, a security control message was given to concerned in which it is written that on 09.07.2015 about 02:30 hrs received an injured person message from SS/Anakapalle mentioned that Keyman Sri K.Srinivasa, Night Patrolman reported that a male person aged about 20 years lying on up and down tracks with injuries at Km.No.746/28 in between Anakapalle – Thadi Railway stations, 108 Ambulance arrived to the spot and take away the victim for medical aid. On receipt of message Ct-0600934, Sri K. Ravi Kumar, Anakapalle along with RPHC/726/DVD Sri P.Pothuraju attended at KG.Hospital, Visakhapatnam. RPHC/726/DVD caused enquiries the injured identified as Challa Ravi Kumar, S/o. Srinivasa Rao, aged 21 years, R/o.6-117, Peddapalem Colony, Peddapalle Village, Elamanchili, Visakhapatnam Dist. Who having Railway monthly season ticket No.32723909 dated:26.06.2015 Rs.270/- from Elamanchili to Visakhapatnam and back. In this regard GRP/DVD not registered any case against the incident. Police has recorded the statement of Injured Applicant, which is available with case file as Ex.A-4 in which Injured Applicant categorically described the whole incident of occurrence. During treatment, Applicant's left leg was operated and amputated below the knee up to ankle and right leg little toe was also amputated. To prove amputation, original photograph Ex.A-9 is available with case file, treatment papers issued by Sagara Durga Hospital, Visakhapatnam and Amma Hospital, Visakhapatnam are filed, marked as Ex.A-5. All documents filed by Applicant injured have been proved through affidavit and during his cross examination, nothing is found either contradictory or factually wrong. Although no eye witness has been examined on behalf of Injured Applicant, but because of this case is based on the evidence adduced by injured himself, it would be pertinent to mention that Hon'ble Supreme Court in many

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other cases, had established that evidence adduced by victim or Injured has a high esteem; which corroborates incident of present case. Under the facts and circumstances explained above, the incident occurred during train journey is covered under the definition of untoward incident. Hence, it is held that Applicant became injured during journey hour and at the time of journey, he was a bonafide passenger and sustained injuries in an untoward incident. Hence, Issue No.1 is decided in favour of Applicant Injured and against the Respondent.

Issue No.2: *Whether the Applicant is entitled to claim the compensation as prayed for and to what relief?*

12. Because of during disposal of Issue No.1, it is held that at the time of incident Injured Applicant was travelling with a valid train journey ticket and he became injured due to accidental fall from a running train which is an untoward incident. Hence, Injured Applicant is entitled to get compensation from Respondent. So far as amount of compensation is concerned, there is a specific schedule given with compensation payable for Death and Injuries in the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2016. In present case, there is amputation of left leg below the knee and up to ankle which is covered under ***Sl. No.22 – For amputation below knee with stump exceeding 5"*** of Part-III of schedule which is fixed amount of compensation as **Rs.3,20,000/-**. Respondent has not contradicted towards above amount. Hence, it is held that Injured applicant is entitled to get compensation of **Rs.3,20,000/- (Rupees Three Lakhs Twenty Thousand only)** and **Rs.60,000/- towards non-scheduled injury sustained by the Applicant totaling for Rs.3,80,000/- (Three Lakhs Eighty Thousand only)** from Respondent Railways.

Since the incident happened on 08.07.2015, as per the pronouncement of the Hon'ble Supreme Court in the case of Union of India vs. Rina Devi and Union of India Vs Radha Yadav, if incident occurred prior to 01.01.2017, the amount of

compensation payable on the date of accident with reasonable rate of interest shall be calculated first. If the amount so calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. Since the Tribunal is granting interest @9% per annum from the date of incident to the date of realization, the Applicant is entitled to get compensation of Rs.3,80,000/- (Three Lakhs Eighty Thousand only) which is the higher amount.

13. In the result, the case of Applicant is liable to be allowed.

ORDER

Claim is allowed without costs.

14. The Respondent is directed to pay the Applicant an amount of Rs.3,80,000/- (Rupees Three Lakhs Eighty Thousand only) in the following manner:-

- (i) Out of the above said amount, a sum of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) shall be released in his favour through ECS and remaining amount of Rs.2,00,000/- (Rupees Two Lakhs only) shall be kept in 20 fixed deposits of Rs.10,000/- each in favour of Applicant for the period of one month to 20 months respectively, with cumulative interest. The maturity amounts of the FDR(s) be credited through ECS in the savings bank account of the Applicant near the place of his residence.
- (i) Respondent is directed to pay the total amount within 60 days from the date of receipt of requisite mandate forms from Applicants, failing which the Applicants shall be entitled to interest @ 9.5% p.a. thereafter from the date of submission of mandate forms till the date of payment.
- (ii) The bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the claimant(s) i.e. the savings bank account(s) of the claimant(s) shall be an individual savings bank account(s) and not a joint account(s).
- (iii) The applicant(s) shall furnish details and documents relating to Aadhar Card, PAN Card, any other appropriate ID card, two sets of

photographs and their specimen signatures, bank pass book with endorsement that no cheque book/debit card is issued to the account holder.

- (iv) The concerned Bank is also directed to accept form No.15G/15H, as the case may be, to ensure that whatever amount is taxable, appropriate steps have to be taken by the concerned bank before releasing the amount through ECS.
- (v) The original fixed deposit shall be retained by the concerned bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the applicants.
- (vi) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
- (vii) The concerned bank shall not issue any cheque book and/or debit card to applicants. However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of award amount. The bank shall freeze debit card(s) against account of the applicant(s) so that no debit card be issued in respect of the account of the applicant(s) from any other branch of the bank.
- (viii) Bank shall not create any charge, mortgage, or hypothecation on said amount.
- (ix) Railways as well as Applicant(s) are required to submit compliance report on the action taken in terms of above noted directions as early as possible and not beyond 90 days from the date of receipt of this order.

15. In the facts and circumstances of the case, there is no order as to costs.

16. The Registry is directed to send a free certified copy of this judgement directly to the applicants at their address mentioned in the claim application by Speed Post in compliance of Rule 34 (3) of the Railway Claim Tribunal (Procedure) Rules, 1989.

Consented 10/11/23
(G. John Prasad)
 Technical Member

10/11/23
(Gyan Prakash Tewari)
 Judicial Member

APPENDIXWITNESSES EXAMINED FOR APPLICANT:

- 1) AW.1 - Ch. Ravikumar

DOCUMENTS MARKED FOR APPLICANTS:

- 1) Ext. A.1. - Monthly season ticket along with ID card
- 2) Ext. A.2. - Attested copy of message from SS/AKP
- 3) Ext. A.3. - Attested copy of MLC intimation
- 4) Ext. A.4. - Attested copy of Injured Statement
- 5) Ext. A.5. - Entire medical record (Discharge Summary)
- 6) Ext. A.6. - Photocopy of Disability certificate
- 7) Ext. A.7. - Photocopy of Rail concession certificate
- 8) Ex. A.8. - Study Certificate
- 9) Ex. A.9. - Original Photograph of Applicant showing the injuries

WITNESSES EXAMINED FOR RESPONDENT: NILDOCUMENTS MARKED FOR RESPONDENT:

- 1) Ext.R.1 - Divisional Railway Manager's Report.

WITNESS EXAMINED FOR COURT: NIL

(Signature)
(G. John Prasad)
Technical Member

(Signature)
(Gyan Prakash Tewari)
Judicial Member