



रेल दावा अधिकरण, इलाहाबाद न्यायपीठ
RAILWAY CLAIMS TRIBUNAL, ALLAHABAD BENCH

Coram:

HON'BLE SHRI SANJEEV AGGARWAL, MEMBER(JUDICIAL)

Case No: TAU/ALD/141/2020 (OA/IIu/LKO/332/2015)

Date of filing: 29.04.2014

Date of order: 09.08.2024

1. Saurabh Singh aged about 23 year son of Sri Jitendra Singh

Resident of House No. 378, Ward No. 25, Shiv Vihar, Bhind, (Madhya Pradesh)

-Applicant

Versus

Union of India represented through
General Manager, North Central Railway, Allahabad

-Respondent

Application under Section 16 of Railway Claims Tribunal Act, 1987 in respect of claim for compensation for the injury in an untoward incident

Value of claim: 6,00,000/- with interest

Present:

For the applicant: Shri C.P. Singh, Learned Counsel (through hybrid mode)

For the respondent: Shri Rizwan Ahmad, Learned Counsel

JUDGMENT

Hon'ble Mr. Sanjeev Aggarwal, Member [Judicial]

1. This is an application filed by the applicants under section 16 of the Railway Claims Tribunal Act, against the respondent railway administration for payment of compensation for the injuries sustained by one Saurabh Singh S/o Jitendra Singh allegedly in an untoward incident.

2. According to claim application of applicant Saurabh Singh (injured), on 25.05.2012 with a second class journey ticket no. 62151405, was travelling from Gwalior to Satna, along with a co-passenger by train Mahakaushal Express but accidentally fell down from the train between Kulpahar and Charkhari Road Rly Station and sustained serious injuries with a fracture in the right hand. After the accident he was admitted in District Hospital, Mahoba and later he was shifted to Gajraja Medical College, Gwalior.
3. The Respondent Railway administration contested the claim of the applicants by filing the written statement, wherein apart from denying the allegations made in the claim application, it is contended inter-alia that the above alleged incident is not an untoward incident and as such the said incident does not fall within the provisions of Sec.123 (c)(2) of the Railways Act, 1989 and that the injured was not a bonafide passenger of the train. Hence, claim application deserves to be dismissed with costs.
4. On the basis of the pleadings of the parties, following issues were framed on 06.06.2019.

ISSUES

- 1) Whether the injured was a bonafide passenger of the train in question?
- 2) Whether incident of sustaining injuries by the injured falls under the ambit of Section 124-A of the Railways Act, 1989?
- 3) What are the injuries sustained by the injured applicant?
- 4) To what relief?
5. The applicant Saurabh Singh has filed his affidavit as AW-1 and was cross-examined on 02.08.2023. The applicant has relied on copies of the documents i.e. Original of journey ticket, OPD ticket of Gajraja and self Aadhar Card. Later on applicant files referral slip of District hospital Mohaba, Discharge

Summary of J.A. Group of Hospital, Gwalior bed side report of J.A. Group of Hospital, Gwalior and some medical bills and other documents in evidence.

6. The respondent railway administration filed statutory investigation report containing several documents. However no witness was examined by the respondent.
7. Heard the counsel for respondent and perused carefully the entire evidence on record.

FINDINGS

Issues No. 1 & 2:

8. These two issues are taken up for consideration simultaneously as they are inter-related. At the outset, we observe that there is no serious challenge on behalf of the respondent regarding the accidental falling from a train of the injured. As per case of applicant he, on 25.05.2012 with a journey ticket no. 62151405, was travelling from Gwalior to Satna, along with a co-passenger by train Mahakaushal Express but accidentally fell down from the train between Kulpahar and Charkhari Road Rly Station and sustained serious injuries with a fracture in the right hand. After the accident he was admitted in District Hospital, Mahoba and later he was shifted to Gajraja Medical College, Gwalior.
9. At the outset it is pertinent to mention here there is no serious challenge to the case of the applicant by the respondent railway.
10. In statutory investigation report it was mentioned:-

मामले में संलग्न पत्रावली के अवलोकन से स्पष्ट है कि ट्रेन दुर्घटना में घायल व्यक्ति सौरभ सिंह जो कि स्वयं दावाकर्ता है, दिनांक 24.05.12 को ग्वालियर से सतना के लिए जनरल टिकट सं. 62151405 लेकर अपने दोस्त के साथ गाड़ी महाकौशल एक्स. के जनरल कोच के गेट पर बैठ कर यात्रा के दौरान कुलपहाड़ - चरखारी स्टेशन के मध्य कि.मी. सं0 1251/6-7

पर चलती गाड़ी से गिरकर घायल हुआ था। दावाकर्ता एवं उसके सहात्री के बयान के अनुसार वह रात्रि के समय जनरल कोच के गेट पर बैठ कर यात्रा कर रहा था, तभी किसी यात्री का घक्का लगने के कारण वह गाड़ी से नीचे गिर गया था। अतः स्पष्ट है कि घटना दावाकर्ता/घायल व्यक्ति की लापरवाही एवं गलती के कारण घटित हुई, जिसके लिए वह स्वयं जवाबदार है। घायल व्यक्ति / दावाकर्ता यदि रेलवे नियमों का पालन करते हुए कोच के अन्दर निर्धारित स्थान पर बैठकर यात्रा कर रहा होता तो ऐसी घटना कदापि नहीं होती। ट्रेन में गेट पर खड़े होकर या बैठ कर यात्रा करना रेल अधिनियम की धारा 156 के तहत दण्डनीय अपराध है।

11. In support of case applicant filed original journey ticket no. 62151405 which remains unrebutted by the respondent railway.

12. So far negligence of applicant is concerned it is well settled by Hon'ble Supreme Court In *Union of India v Rina Devi [2018 SCC Online SC 507]* that strict or no-fault liability on Railways enshrined under Section 124A of the Railways Act, 1989. Hence, it is held that the injured was a victim of an untoward incident of accidental falling from the said train.

13. Therefore, on the facts and circumstances of the case, I have no hesitation in holding that the injured was traveling as a bonafide passenger on the train in question and sustained injuries a result of the untoward incident as defined u/s 123 (c) (2) read with Section 124-A of the Railways Act, 1989. Thus issues no 1 and 2 are disposed of accordingly.

Issue No. 3 & 4

14. Now the question that arises for consideration what injuries have been sustained by him in an untoward incident and regarding compensation payable to the applicant on account of those injuries. In order to prove the injury the applicant

has relied on OPD ticket of Gajraja , referral slip of District hospital Mohaba, Discharge Summary of J.A. Group of Hospital, Gwalior bed side report of J.A. Group of Hospital, Gwalior.

15. Considering the evidence produced by applicant, I find that applicant had suffered injury in right forearm with elbow fracture which is covered under Item No.-34 i.e. of Part-III of Rule 3(1) of the Railway Accidents and untoward incidents (Compensation) Rules, 1990 (hereinafter referred as the Rules), as amended from time to time, for which an amount of Rs. 64,000/- has been prescribed. It is also on record that injured had suffered other serious injuries and was hospitalized from 25.05.2012 till 06.06.2012 for which compensation of Rs. 25,000/- is deemed just and proper under Rule 3 (3) of the Rules.
16. It is held that the applicant is entitled for compensation of Rs. 89,000/- (Rupees Eighty Nine Thousand Only). These issues are disposed of accordingly.

ORDER

17. The applicant Shri Saurabh Singh son of Shri Jitendra Singh is entitled for an award for an amount of Rs. 89,000/- (Rupees Eighty Nine Thousand Only) with no order as to cost.
18. The applicant Shri Saurabh Singh is entitled to amount of Rs. 89,000/- (Rupees Eighty Nine Thousand Only). Considering the fact that it is case of injury and amount of compensation is meagre, therefore, it is deemed proper that applicant may be permitted to withdraw Rs.19,000/- (Rupees Nineteen Thousand Only) from his share of compensation through ECS and the balance amount of Rs. 70,000/- (Rupees Seventy Thousand Only) should be invested

in a fixed deposit for a period of 03 years in any nationalized Bank. The monthly interest accrued in the FDR should be disbursed in the saving account of the applicant through ECS.

19. The amount of Rs. 19,000/- (Rupees Nineteen Thousand Only) amount permitted to be withdrawn shall be disbursed to the applicant Shri Saurabh Singh in his saving bank account through ECS.

20. The Respondent Administration is hereby directed to deposit the amount awarded in the Suitor's Bank Account of the Additional Registrar of this Tribunal within a period of 60 days from the date of communication of the award failing which applicant shall be entitled to receive interest @ 9% per annum from the date of award till the actual date of depositing of the decretal amount with the Additional Registrar of this Tribunal.

21. The applicant is hereby directed to submit the details of his Aadhar linked Bank account of a Nationalized Bank situated nearest to his place of residence to the Additional Registrar of this Tribunal. The Bank shall not permit any joint name(s) to be added in his saving bank account or fixed deposit account i.e. his Saving Bank Account shall be an individual Saving Bank Account and not a Joint Account.

22. The maturity amounts of the FDR be credited by Electronic Clearing System(ECS) in his Saving Bank Account.

23. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.

24. The concerned Bank shall not issue any cheque book and/or debit card to applicant. 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.

25. The Bank shall make an endorsement on the passbook of the applicant to the effect that no cheque book and/or debit card have been issued or will be issued without the permission of the Tribunal and the applicant shall produce the passbook with the necessary endorsement duly signed and stamped by the Bank before the Additional Registrar of this Tribunal. The Bank is further directed to permit the applicant to withdraw money from his Saving Bank Account by means of a withdrawal form only.
26. The application is allowed in the above terms. No order to costs.
27. The Respondent Railway Administration is further directed to place on record the proof of deposit of the award amount with up to date interest along with a calculation sheet and the same shall be filed with the Additional Registrar.
28. The Registry is directed to send a free certified copy of this judgment directly to the applicant at his address mentioned in the claim application by Speed Post in compliance of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989.
29. Fix 18.11.2024 for hearing on compliance of the orders by the applicant and the respondent.
30. The Judgment signed, dated and pronounced today in open court.

[Sanjeev Aggarwal]
Member [Judicial]
Dated: 09.08.2024