

APHC010389212019



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

THURSDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 524/2019

Between:

1.S PRASAD, S/O VEERA SWAMY, AGEDA BOUT 48 YEARS, OCC.
CARPENTER, R/O D.NO. 5-62, MANKENVARIPALEM VILLAGE,
CHIRAMA MANDAL, PRAKASAM DIST.

...APPELLANT

AND

1.UNION OF INDIA, Rep. by its General Manager, South Central Railway,
Secunderabad.

...RESPONDENT

Counsel for the Appellant:

1.INAMPUDI NAGESWARA RAO

Counsel for the Respondent:

1.JUPUDI V K YAGNADUTT(CENTRAL GOVERNMENT COUNSEL)

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA**CIVIL MISCELLANEOUS APPEAL NO: 524/2019****J U D G M E N T:**

1. The present Civil Miscellaneous Appeal (for short CMA) has been preferred by the Appellant/Applicant being aggrieved by the Judgment in Case No.OA(II)(U) No.343 of 2011 dated 20.08.2019 passed by the Railway Claims Tribunal, Amaravathi Bench at Guntur, wherein the Tribunal dismissed the claim of the Applicant.

For the sake of convenience, the parties hereinafter are referred to as they were arrayed before the Tribunal i.e., Appellant as Applicant and Respondent as Respondent

2. Applicant S.Prasad being injured (hereinafter referred as injured) filed a claim petition under Section 16 of the Railway Claims Tribunal Act, 1987 against the Respondent – Railway Administration, seeking compensation of Rs.4,00,000/- with interest and costs for the injuries sustained by him in an untoward incident that occurred on 30.09.2011.

3. The facts of the claim application of the applicant before the Tribunal are that - on 30.08.2011, S.Prasad after purchasing 2nd class train journey ticket bearing No.74567941, for his journey from Vetapalem to Stuvartpuram, boarded Ongole-Vijayawada passenger and reached Stuvartpuram. After completion of his work in Stuvartpuram, again on his work to go to Jandrapet, he reached Stuvartpuram Railway station and purchased a 2nd class train journey ticket bearing No.21498879 from Stuvartpuram to Jandrapet and boarded Train No.57242 Vijayawada-Bitragunta passenger. While alighting from the train at Jandrapet Railway station, applicant lost his balance and fell down from the train due to sudden jerks and sustained severe injuries. The alleged incident is covered under the definition of "untoward incident" and the applicant was a bonafide passenger.

4. The respondent Railway filed written statement, denied all the allegations/ averments made in the claim application and contended that the applicant created a false story for the purpose of compensation from the respondent Railways and there was no FIR filed by the applicant. Guard of train No.57242 passenger, through SS/VPM and SS/CLX to all concerned, had stated that "One male passenger aged about 40 years, was run over off side and injured at Jandrapeta Railway station. Alcohol smell was emitting from the injured at the time of incident". Therefore, the respondent has submitted that the said incident was not an untoward incident within the meaning of Section 123 (c) (2) of Railways Act causing injuries to the applicant. Hence, claim application deserves to be dismissed, with costs.

5. Basing on the above pleadings, the following issues were framed by the Tribunal for enquiry/trial -

- 1) Whether the Applicant was a bonafide passenger of the train and sustained the 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?

6. The applicant himself examined as A.W.1 and got marked Ex.A.1 to Ex.A5.

On behalf of respondent Railway none were examined but submitted various documents which also include DRM's report.

7. Upon hearing both side counsel and upon perusing the material on record, the Tribunal dismissed the claim application of the applicant by holding issue No.1 that the applicant was not a bonafide passenger and the injuries sustained by the applicant does not come within the purview of untoward incident within the meaning of Section 124A of the Railways Act and on issue No.2 the claim of the claimant is dismissed.

8. Being aggrieved by the said Judgment passed by the Tribunal, the applicant has preferred the present appeal on the grounds that – the Railway Claims Tribunal grossly erred in holding that the deceased was not a victim of untoward incident on the ground that the victim was in a state of intoxication is one of exceptions contemplated under the provision of section 124 A of Railways Act for award of compensation though the victim was a bonafide passenger and the fall under exception. Therefore, prayed to allow the appeal by awarding compensation and by setting aside the Judgment dated 20.08.2019 in O.A II (U) No.343 of 2011 passed by the Railway Claims Tribunal, Amaravati Bench, at Guntur.

9. Heard both Counsel and perused the material on record.

10. On perusal of the order passed by the Tribunal, it can be observed that the Tribunal observed that there was criminal negligence on his part since he took diversion from the outside and that too by consuming alcohol, has dismiss the claim petition. However, it can be observed that the applicant has purchased two original journey tickets i.e. 1) 74567941 from Vetapalem to Stuvartpuram, 2) 2149889 from Stuvartpuram to Jandrapeta and the accident took place at Jandrapeta Railway Station which is just before Vetapalem railway station. So, it can be considered as if the accident occurred while the applicant was travelling in the said Train with a bonafide ticket.

11. With regard to the untoward incident, as the D.R.M's report states the injured was consumed alcohol and was in the state of intoxication and also that he was trying to board train, that too outside and as such, the accident took place because of his negligence. However, the case of the applicant is that no breath analyzer test has been conducted to prove that the injured was under intoxication at the time of accident, except in the charge sheet generally it was mentioned that he consumed alcohol.

12. The counsel for the appellant relied upon a Judgment of the High Court of Andhra Pradesh in C.M.A.No.78 of 2016 – wherein under similar circumstances, wherein an objection was raised by the Railways that the applicant was intoxicated at the time of accident and in such a case it was considered that the accident was occurred because of his negligence, the Court has held as under –

“Admittedly appellant/applicant was not subjected to breath analyzer test to find out the percentage of the alcohol present in his body. Merely because the Doctor made an endorsement in Ex.A.3 case sheet that the appellant/applicant was in fully drunken state, drowsy, irritant and smelling alcohol at the time of his admission into the hospital, that would no *ipso facto* make out a case that the appellant/applicant had fallen from the subject train due to his own negligence, there is no direct evidence to substantiate that the same. As per the evidence of A.W.1 (Appellant/applicant), he accidentally fell down from the subject train due to jerks and speed and suffered injuries. When there is no breath analyzer test to found the percentage of alcohol in the blood of the appellant/applicant, it is difficult to construe that the appellant/applicant was preliminarily negligent and was himself responsible for fall from the subject train and suffering amputation of wrist of his left hand. Further, there is no eyewitness to the alleged incident. The Railways Act, 1989 is a beneficial piece of legislation. Its object is to compensate the dependents of the deceased or the injured in an untoward incident. When two views are possible and when there are no eye-witnesses to support the defence set up by Railways, the view which is favourable to the applicant is required to be adopted. There was no intention on the part of the applicant to suffer the injuries. Moreover, the appellant/applicant cannot be called upon to strictly prove the manner in which he sustained injuries. So it cannot be held that the injuries suffered by the appellant/applicant are self-inflicted injuries and would fall under Proviso (d) of Section 124A of the Railways Act, 1989. Under the circumstances, it can be safely concluded that the appellant/applicant suffered injuries in an untoward incident of accidental fall from the Train No.8563-Prasanthi Express”.

In the present case also, it is an admitted fact that the facts of the said case are similar to the case on hand. As admittedly no such breath analyzer test has been conducted to prove that the deceased was in an intoxication state at the time of accident. However the applicant has established his case of falling from train by producing original train tickets and also it is an admitted fact that the accident took place on Janadrapeta, which is a station just before Vetapalyam railway station to which station he has purchased a valid journey ticket.

13. It is the case of the appellant/applicant that he has suffered permanent disability because of the said accident as he suffered injuries as below:-

1. Amputation of left hand up to shoulder.
2. loss of right hand last finger,
3. cut of ring finger.

In such a case, the compensation payable to the appellant/applicant falls under part II (2) of the schedule and he is entitled to Rs.8,00,000/- as compensation.

14. Accordingly, the impugned order passed by the Railway Claims Tribunal, Amaravathi Bench at Gunturu dated 20.08.2019 in case No.OA/II/U/343/2011 is hereby set-aside and the appeal stands allowed by allowing the claim of compensation. The appellant is entitled for compensation to the tune of Rs.8,00,000/- (Rupees eight lakhs). The amount is directed to be paid by the respondent Railways within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant/applicant is permitted to withdraw the same.

15. Accordingly, Civil Miscellaneous Appeal is allowed. No costs.

Consequently, pending miscellaneous applications, if any, shall stand closed.

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Dated 19.02.2026.

SMT JUSTICE V.SUJATHA

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THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 524/2019

DATED 19.02.2026

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