

Rinki Dubey vs Union Of India Thru. General Manager, ... on 3 March, 2025

Author: Rajnish Kumar

Bench: Rajnish Kumar

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Neutral Citation No. - 2025:AHC-LK0:14636

Court No. - 4

Case :- FIRST APPEAL FROM ORDER No. - 170 of 2024

Appellant :- Rinki Dubey

Respondent :- Union Of India Thru. General Manager, Northern Railway New Delhi

Counsel for Appellant :- Manish Kumar Srivastava, Chandra Prakash Singh, Saroj Kumari

Counsel for Respondent :- Mahendra Kumar Misra

Hon'ble Rajnish Kumar, J.

I.A. No. 3 of 2025

1. Heard Shri Mahendra Kumar Misra, learned counsel for the respondent-applicant and Shri Manish Kumar Srivastava, learned counsel for the appellant-respondent.
2. This is an application for recall of the order dated 18.07.2024, passed by this Court, by means of which the appeal has been admitted.
3. Learned counsel for the respondent-applicant submits that this appeal has been filed against the judgment and order dated 08.04.2024 passed by the Railway Claims Tribunal, Gorakhpur Bench, Gorakhpur, whereas the appeal under Section 23 of the Railway Claims Tribunal Act, 1987

(hereinafter referred as "Railway Act") can be filed to the High Court having jurisdiction over the place where the Bench of Railway Tribunal is located and this Court at Allahabad has jurisdiction over Gorakhpur, where the Bench is located, therefore, it can be filed and entertained at Allahabad only. He further submits that merely because the accident had occurred in District Ayodhya, which is in the jurisdiction of this Court, cannot be a ground to entertain this appeal because the jurisdiction of Ayodhya is before the Railway Claims Tribunal, Gorakhpur Bench, Gorakhpur and jurisdiction of Gorakhpur is at Allahabad. Thus, inadvertently it has been admitted. Therefore, the submission is that the aforesaid order may be recalled and the appeal may be dismissed for want of jurisdiction.

4. Per contra learned counsel for the appellant-respondent submits that since the accident had occurred in the Ayodhya District, which is under the jurisdiction of this Court, therefore, it has rightly been entertained and admitted. There is no illegality or error in it. He relies on Sri Nasiruddin vs. State Transport Appellate Tribunal; (1975) 2 SCC 671.

5. Having considered the submissions of learned counsel for the parties, I have perused the records.

6. It is not in dispute that the jurisdiction of Faizabad now Ayodhya is before the Railways Claims Tribunal, Gorakhpur Bench, Gorakhpur. It is provided in Schedule I of Railway Claims Tribunal (Procedure) Rules, 1989, referable to Rule 3 of the said rules. Rule 3 is extracted hereinbelow:-

"3. Territorial jurisdiction of Benches.

(1) The number of Benches, the Headquarter of and the territorial jurisdiction of a Bench shall be as specified in Schedule I and Schedule I(A).

(2) If an application is received by a Bench which does not have territorial jurisdiction to deal with the matter, the Registrar of the Bench shall return the application to the applicant.

(3) Notwithstanding anything contained in sub-rule (2) the applicant may apply to the Chairman and the Chairman may thereupon for reasons to be recorded in writing direct a Bench other than the Bench before which an application has been filed to hear such application and issue such orders as may be necessary for the transfer of the application."

7. The relevant provision of Schedule I at Serial No. 11 of the Gorakhpur Bench is extracted below:-

11.

Gorakhpur Ambedkar Nagar, Azamgarh, Baharaich, Ballia, Balrampur, Basti, Deoria, Faizabad, Gazipur, Gonda, Gorakhpur, Kushinagar, Maharajganj, Mau, Sant Kabir Nagar, Shravasti and Siddharthnagar districts of Uttar Pradesh.

8. Section 23 of the Railway Act provides that an appeal shall lie from every order, not being an interlocutory order, of the Claims Tribunal, to the High Court having jurisdiction over the place where the Bench is located. Section 23 is extracted hereinbelow:-

"23. Appeals .-(1) Same as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law, an appeal shall lie from every order, not being an interlocutory order, of the Claims Tribunal, to the High Court having jurisdiction over the place where the Bench is located.

(2)No appeal shall lie from an order passed by the Claims Tribunal with the consent of the parties.

(3)Every appeal under this section shall be preferred within a period of ninety days from the date of the order appealed against."

9. In view of above, it is apparent that the appeal can be filed before the High Court having jurisdiction over the place where the Bench of the Railway Claims Tribunal is located. The impugned judgment and order has been passed by the Railway Claims Tribunal, Gorakhpur Bench, Gorakhpur and admittedly Allahabad now Prayagraj has jurisdiction over Gorakhpur, where the Bench of the Railway Claims Tribunal is located. Thus, the appeal can be filed at Allahabad in view of the aforesaid statutory provision.

10. The Hon'ble Supreme Court, in the case of Sri Nasiruddin vs. State Transport Appellate Tribunal (Supra), has held that if the cause of action arises wholly within oudh areas then the Lucknow Bench will have jurisdiction. Similarly, if the cause of action arises wholly outside the specified areas in oudh then Allahabad will have jurisdiction. If the cause of action in part arises in the specified oudh areas and part of the cause of action arises outside the specified areas, it will be open to the litigant to frame the case appropriately to attract the jurisdiction either at Lucknow or at Allahabad. The relevant paragraph 38 is extracted below:-

"38. To sum up. Our conclusions are as follows. First there is no permanent seat of the High Court at Allahabad. The seats at Allahabad and at Lucknow may be changed in accordance with the provisions of the order. Second, the Chief Justice of the High Court has no power to increase or decrease the areas in oudh from time to time. The areas in oudh have been determined once by the Chief Justice and, therefore, there is no scope for changing the areas. Third. the Chief Justice has power under the second proviso to paragraph 14 of the order to direct in his discretion that any case or class of cases arising in oudh areas shall be heard at Allahabad. Any case or class of cases are those which are instituted at Lucknow. The interpretation given by the High Court that the word "heard" confers powers on the Chief Justice to order that any case or class of cases arising in oudh areas shall be instituted or filed at Allahabad, instead of Lucknow is wrong. The word "heard" means that cases which have already been instituted or filed at Lucknow may in the discretion of the Chief Justice under the

second proviso to paragraph 14 of the order he directed to be heard at Allahabad. Fourth, the expression "cause of action" with regard to a civil matter means that it should be left to the litigant to institute cases at Lucknow Bench or at Allahabad Bench according to the cause of action arising wholly or in part within either of the areas. If the cause of action arises wholly within oudh areas then the Lucknow Bench will have jurisdiction. Similarly, if the cause of action arises wholly outside the specified areas in oudh then Allahabad will have jurisdiction. If the cause of action in part arises in the specified oudh areas and part of the cause of action arises outside the specified areas, it will be open to the litigant to frame the case appropriately to attract the jurisdiction either at Lucknow or at Allahabad. Fifth, a criminal case arises where the offence has been committed or otherwise as provided in the Criminal Procedure Code. That will attract the jurisdiction of the Court at Allahabad or Lucknow. In some cases depending on the facts and the provision regarding jurisdiction, it may arise in either place."

11. The appeal has been filed before this Court against the judgment and order passed by the Railway Claims Tribunal, Gorakhpur Bench, whereas according to statutory provision made in Section 23 of the Railway Act the High Court having jurisdiction over the place where the Bench is located will have jurisdiction, therefore, appeal can not be filed on the basis of place of accident. Admittedly, this Court at Allahabad has jurisdiction over the Gorakhpur, where the Bench of the Railway Claims Tribunal is located, who has passed the impugned order, therefore, the order passed by Gorakhpur Bench can be challenged in appeal at Allahabad in view of the statutory provision made in the Railways Act.

12. In view of above, the order dated 18.07.2024 is liable to be recalled. The order dated 18.07.2024 is hereby recalled.

On Appeal

13. In view of above, the appeal is liable to be dismissed for want of jurisdiction.

14. At this stage, learned counsel for the appellant insisted that in view of amalgamation order, this appeal can be transferred to this Court at Allahabad by the Hon'ble the Chief Justice, however, despite the opportunity granted to learned counsel for the appellant to take appropriate steps, he continued to argue on application and insisted to decide the aforesaid application, therefore after hearing learned counsel for the parties, the application has been decided. Even otherwise, in view of the aforesaid statutory provision the appeal can be filed at Allahabad.

15. The appeal is dismissed for want of jurisdiction. The appellant may file the appeal before the appropriate court in accordance with law, if so advised.

16. The tribunal's record shall be remitted to the concerned tribunal forthwith and in any case within a period of two weeks from today.

Order Date :- 3.3.2025/Raj