

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.140 of 2014

=====

Ruplal Sahu S/O Late Chandeeep Sahu, Resident Of Mohalla - Bakarganj,
Bazaza, PO and PS Pirbahor, Distt Patna Bihar

... .. Appellant/s

Versus

The Union Of India Through The General Manager, East Central Railway,
Hazipur (vaishali)

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Advocate

For the Respondent/s : Ms. Meena Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 06-08-2019

Heard parties.

2. This miscellaneous appeal has been filed on behalf of the appellant for setting aside the order dated 07.01.2014 passed in claim application No. MA (OA)00083/2002 passed by learned Member (Technical) of Railway Claims Tribunal, Patna Bench, Patna by which the claim application of the appellant has been rejected.

3. The claimant – appellant had filed an application for grant of compensation of rupees three lacs under Section 125 of Railways Act, 1989 for the injuries sustained by him in an



untoward incident.

4. Claimant – applicant, who was 49 years old, was employed as Technician in Bihar State Electricity Board and on 30.10.2001, he was coming Patna from Gaya junction along with his friend and on reaching Gaya station, he purchased two second class ordinary ticket for Patna junction and on arrival of train, he somehow entered into the compartment and as there was heavy rush and he was standing near the door and as the train proceeded due to push and pull and jostling of the passengers, he lost his balance and fell down from the train and received injuries in both legs which were crushed by the moving train.

5. Respondent railways filed their written statement but did not adduce any documentary or oral evidence to deny the claim of appellant. Tribunal framed four issues for its determination.

6. The incident was reported by the Deputy Station Master on 30.10.2001 which was forwarded to the In-charge, GRP, Gaya through memo that one person was injured in 600 Down Passenger Train having leg injury on platform no.9. Railway hospital has been informed for ambulance. This is for your information and necessary action. Accordingly, G.R.P.



Gaya P.S. Case No.1082 dated 30.10.2001 was registered (Ext.). It has been further stated in the said *Sanaha* that Sub-Inspector B. Mishra was entrusted to enquire with respect to Sanaha no.1082 and, accordingly, after inquiry, he reported that injured Ruplal Sahu was treated in Railway Hospital, Gaya and after providing first aid, he was shifted to Magadh Medical College and as he was unconscious, his statement could not be recorded. He further reported that on receipt of memo, he went to platform no.9 but could not find any medical officer of Railway hospital nor any ambulance and with the help of passengers, he shifted injured Ruplal Sahu to Railway hospital where he was treated and, thereafter, sent to Magadh Medical College, Gaya, from where he was referred to PMCH Patna.

7. In the claim petition, the claimant has given details of his admission in the unit of Dr. A. Baskat, Dept. of Surgery at A.N.M.M.C.H., Gaya and who referred claimant to P.M.C.H. Patna on 31.10.2001 for better treatment.

8. However, for better treatment, he got admitted in Asha Hospital, P.C. Colony, Patna, which is a private hospital, where he remained admitted and finally his right leg was amputated from knee level.

9. Claimant has also enclosed the prescription issued



by the Railway Hospital, Gaya (Ext.), addressed to the Medical Causality officer ANNMCH, Gaya wherein it has been stated that Ruplal Sahu was brought by GRP, Gaya at 10 p.m. on 30.10.2001 with crush injury due to fall from running train and the same was referred to ANNMCH, Gaya after receiving primary treatment and, thereafter, he was treated in ANNMCH hospital, Gaya in the department of surgery and from there he was referred to PMCH, Patna on 31.10.2001 (Ext.3).

10. He got himself admitted in Asha Hospital, P.C. Colony, Patna for treatment where he remained admitted and his right leg was amputated in the said hospital and in support of which he has enclosed prescription and medical certificate dated 31.10.2001 wherein it has been recorded that Ruplal Sahu received crush injury above the right ankle in train accident on 30.10.2001 at 10 p.m. and initially he was treated at ANMMCH, Gaya. Claimant also produced disability certificate dated 6.3.2002 issued by Civil Surgeon -cum – CMO, Patna in which in nature of handicapness it has been reported post traumatic amputation of right leg from upper one third. Loss of heel left side which has been marked as Ext.

11. In support of his claim case, the claimant filed his deposition on affidavit in which it has been stated by him that he



sustained crush injury in his both legs in an untoward incident, as a result of which, his right leg was amputated and he also suffered loss of heel of his left leg. The ticket was lost in the incident as such, same could not be produced before the Tribunal. The claimant was cross-examined by the Railways but there is nothing in his cross-examination to disbelieve the case of the appellant.

12. The claim application has been rejected by the Tribunal for the reasons that documents which have been enclosed were not proved. Provisions of Evidence Act are not applicable in claim case and same has to be decided after compliance of principle of natural justice. Documents which were filed by the claimant were issued by authorities during discharge of their official duties and authenticity and genuinity of the document submitted by the appellant cannot be doubted and same were issued by the authorities and doctors of the Government Railway Hospital while on duty as such, there is no reason to disbelieve these documents.

13. In their written statement also, the Railways have not stated that the documents which have been enclosed along with the claim petition are not genuine or forged document as such, there was no occasion for the Tribunal to reject the claim



of claimant on the ground that the documents enclosed are not proved. The claimant has claimed compensation as per Schedule III at Item Nos.20 and 24, for rupees two lacs and rupees one lacs.

14. From the oral as well as documentary evidence the case of claimant that he suffered injury in a rail accident in an untoward incident as defined under Section 123 (C)(2) of Railway Act, 1989 is established and he is entitled for grant of compensation under Section 124 A of the Railway Act as he was a *bona fide* passenger. Accordingly, the order of the Tribunal is set aside and claim application of appellant for grant of compensation is allowed. The Tribunal is directed to grant compensation of rupees 3 lacs to the appellant with interest @ 6% per annum from the date of accident till its realization.

15. Miscellaneous appeal stands allowed.

16. Let the L.C.R. be returned forthwith to the court concerned.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.08.2019
Transmission Date	NA

