

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.268 of 2014

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Amarnath Ray @ Amarnath Rai, s/o Sri Kashinath Rai, resident of village -
Maudhi, PO and PS Bihta, Distt Patna Bihar

... Applicant ... Appellant/s

Versus

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

...Respondent ... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. D. K. Sinha, Sr. Advocate

Mr. Chandra Sen Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 21-06-2019

Heard.

2. This miscellaneous appeal has been filed for setting aside the order dated 2.4.2014 passed by Railway Claims Tribunal, Patna Bench, Patna passed in Claim Application No. O.A.00048/2005 by which the application filed on behalf of appellant for grant of compensation was rejected.

3. Claim application was filed by appellant Amar Nath Ray claiming compensation of rupees four lacs for sustaining injuries in an untoward incident. Appellant who is a railway employee having a second class valid pass was travelling by train No. 2 P.G. on 20.7.2004 for going to his home, however, during his journey due to sudden jerk of the train, he accidentally fell down near water tank at Gaya Junction



and both his legs above knee got crushed.

4. Respondent – Railways filed their written statement and denied the claim of appellant and stated that he sustained self - inflicted injuries and he was not a *bona fide* passenger as such not entitled for the compensation.

5. On the basis of pleading of the parties, the Tribunal framed six issues for adjudication and determination

6. FIR was instituted on written complaint of appellant dated 6.11.2004 given to officer-in-charge, GRP, Gaya in which it has been stated that his father is orderly in Railway Hospital, Gaya and on 20.7.2004 while he was going to his home due to heavy rush, he fell down from the train and both of his legs were crushed and he became unconscious and was admitted to Railway Hospital, Gaya where after receiving primary treatment, he was sent to Howrah Railway hospital on the same day and due to shock and dismay due to said accident, his father could not inform the GRP or Superintendent of Railway Station and after being discharged from Howrah Hospital, he is filing the present written complaint.

7. Claimant in his affidavit - cum - deposition has stated that the untoward incident is of 20.7.2004 which took place near Gaya junction at water tank and he was travelling



as a *bona fide* passenger on 2 PG passenger train for Patna junction. He had to alight at Patna junction and catch another train for Bihta Railway Station. There was heavy rush in 2 PG Gaya- Patna passenger train and he was standing near the door of compartment and as train proceeded from platform and came near water tank due to intense jostling of passengers, he became unstable and fell down from running train and his both legs beneath knee was crushed by the wheels of train and he became unconscious and he was admitted by the local people and railway administration in Gaya railway hospital. His father is orderly in Railway hospital and after having knowledge of the accident, he came to the hospital and after giving first aid, as his condition was serious, he was shifted to the Railway hospital, Howrah on the same day from where he was discharged on 31.8.2004 and, thereafter, recorded his fardebyan in G.R.P. Gaya on 6.11.2004. In his cross-examination, he has stated that on the date of occurrence, he was going to Bihta from Gaya with a railway pass and the incident took place near railway station at water tank and he became unconscious and on gaining consciousness, he found himself in railway hospital and on the same day, he was shifted to Howrah Railway Hospital.

8. In support of his claim, the claimant has produced



the certificate of Railway Hospital, Gaya of primary treatment, medical treatment certificate granted by railway hospital, Howrah, station memo, discharge slip issued by Howrah railway station, reserved ticket from Gaya to Howrah, disability certificate, certificate of Madhayma school and medical prescription.

9. Appellant has also enclosed a certificate from Dr. K. Chaturvedi, Sr. M.O. Ortho Hospital, Howrah Eastern railway dated 6.8.2004 in which it has been certified that right lower limb of appellant was amputated at Howrah railway hospital on 6.8.2004 due to run-over by a train. Even in the prescription of railway hospital indoor case record, the injury has been stated to be of both lower limb due to accident by train (2 P.G.) which is dated 20.7.2004, the date of accident. | Appellant has also brought on record the letter of Medical Superintendent, E.C. Railway dated 20.7.2004 addressed to the Medical Director Howrah Ortho Hospital, Howrah in which it has been stated that appellant was brought to Gaya railway hospital at 6 a.m. on 20.7.2014 for crush injury of both legs and further it has been stated that he got said injuries due to fall from running train and after giving primary treatment he was sent to Howrah hospital on the same day.



10. After going through the L.C.R. particularly, the two exhibits which are the certificates and letters of Medical Superintendent of Gaya Railway Hospital as well as Sr. Medical Officer of Howrah Ortho Hospital which is dated 20.7.2004, i.e, the date of accident and 6.8.2004 in which it has been clearly stated that appellant suffered crushed injuries in both of his legs due to fall from the train and even the train no. 2 P.G. is mentioned there as such, it was not for the first time that a case of fall from train was made out at the time of institution of FIR. The case of appellant has been consistent throughout in the FIR, in his claim petition as well as in his affidavit-cum-deposition and he has been cross-examined by the other side and there is nothing in his cross-examination to disbelieve his statement rather his ocular evidence appears to be reliable and trustworthy.

11. The documents produced are the public document issued by the railway hospital and its genuinity and authenticity cannot be doubted and same was never challenged by the other-side. In a claim proceeding, provision of Evidence Act is not applicable and compensation and claim case is to be decided after compliance of natural justice.

12. After hearing the parties and considering the



evidence of record, this Court finds that appellant was a *bona fide* passenger and his both limbs were crushed and subsequently amputated and he received said injuries by falling from the 2 PG train while travelling from Gaya to Patna and is entitled for compensation of rupees four lacs.

13. Accordingly, the order passed by the Tribunal is set aside and the claim case of appellant is allowed. The respondent is directed to pay a compensation of rupees four lacs to the appellant with 6 % interest from the date of filing of application till its payment.

14. Miscellaneous appeal stands allowed.

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

Sanjay/-

(S. Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2019
Transmission Date	NA

