

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.103 of 2014

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Bishwanath Prasad S/O Late Mahabir Pasad Resident Of Village Panchwati
Hat, Sabour, P.O. and P.S. Sabour, District Bhagalpur.

... (Applicant in the suit) ... Appellant/s
Versus

Union of India through the General Manager, Eastern Railway, Kolkata

(Respondent in the suit) Respondent/s

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Appearance :

For the Appellant/s : Mr. Vivekanand Vivek

For the Respondent/s : Mr. Mahesh Prasad

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 12-07-2019

Heard the parties.

This miscellaneous appeal has been filed on behalf of the appellant for enhancement of compensation amount to Rs.2,00,000/- whereas by judgment and order dated 16.01.2014 passed by learned Member (Technical), Railway Claims Tribunal, Patna Bench in M.A. (O.A.) No.00015 of 2003, the claims tribunal has granted compensation of Rs.1,20,000/- to the claimant/appellant.

Claimant /appellant was Khalasi in Railway who accidentally fell down on 12.3.2001 while boarding train No.815UP (Burdwan Passenger) at Shivnarainpur railway station and sustained grievous injury and was treated in Jamalpur railway hospital and Railway Orthopaedic Hospital, Howrah where his right leg was amputated. He was medically



boarded out from railway services vide railway letter dated 24.09.2002 after being declared unfit for railways job. The medical board report indicated that claimant/appellant sustained injury over his back and right leg due to fall from slow running train while boarding on 12.03.2001 resulting in fracture of D12 thoracic vertebra and injury of spinal cord resulting in paraplegia with bladder and bowel involvement and traumatic amputation of right leg just above the ankle.

The tribunal has held that claimant/appellant has succeeded in proving his injury sustained in an untoward incident while boarding the train, as such, he is entitled for compensation and as per Item no.24 of Part III of the Schedule under Rule 3 of the Railway Accident and Untoward Incident (Compensation Rules) and he was granted compensation of Rs.1,20,000/- with simple interest @ 6% per annum from the date of condonation of delay ,i.e, from 5.10.2012.

It has been submitted on behalf of counsel for the appellant that claimant/appellant is also entitled for compensation as per Item No.21, fracture of spine with paraplegia, for which compensation of Rs.2,00,000/- is payable. It has been further argued that interest on the compensation amount should be paid from the date of application and not from



the date of condonation of delay application.

After hearing the counsel for the parties and considering the materials available on record, this Court finds that claimant/appellant is entitled for compensation of Rs.2,00,000/- from the date of filing of claim application.

Accordingly, the order passed by the claims tribunal is modified to the extent that railways shall pay compensation after deducting the compensation amount already paid from Rs.2,00,000/- to the claimant/appellant calculating the interest from the date of filing of application till its payment within three months from the date of receipt/production of copy of order passed by this Court.

This miscellaneous appeal is disposed of.

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

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2019
Transmission Date	NA

