

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.270 of 2016

Union Of India Through The General Manager Eastern Railway Kolkata

... .. Appellant/s

Versus

Sri Rahul Kumar Son of Ramanand Mahto, resident of Village Chaukra, Post office and Police Station-Piri Bazar, District-Lakhisarai, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kumar Sachin, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 05-12-2022

Heard Mr. Kumar Sachin, learned counsel for the appellant-Railways.

The present appeal has been directed against the order dated 13.01.2016 by the Railways Claims Tribunal, Patna Bench, Patna (henceforth for short 'the Tribunal') in O.A. No. 00440 of 2013 by which the claim of the applicant-respondent was allowed with a direction to the Railways to pay Rs. 2,70,000/- with 9% interest within two months after which additional 2% interest will be paid to the applicant-respondent.

2. The brief facts relating to the case is/are as follows:-

3. On 19.01.2013, the applicant-respondent purchased a rail ticket for 210 DN Howrah-Jamalpur passenger and boarded it at Abhaypur for Jamalpur. At Jamalpur, due to



rush of passengers and jerk of the train, as he was alighting from the train, fell down and suffered injuries. He was taken to the Rail Hospital, Jamalpur and then on the recommendation of the Senior Divisional Medical Officer, Railway Hospital, Jamalpur, referred to P.M.C.H., Patna. He however, was ultimately treated at Sri Ram Hospital, Patna and discharged on 01.02.2013 and as per the injury reported, his left leg was amputated below knee.

4. Thereafter, the applicant preferred OA No. 00440 of 2013 before 'the Tribunal'.

5. The stand of 'the Railways' before 'the Tribunal' was that he tried to alight while the train was still on move and as such, it does not attract Section 123(C)(ii) of Indian Railways Act (henceforth for short 'the Act') accordingly, the claim is fit to be rejected.

6. 'The Tribunal' framed issues which are as follows :-

- (i) whether the injured was a valid passenger?;
- (ii) whether it comes within a purview of Section 123(C)(ii) of the Indian Railways Act, 1989?;
- (iii) whether the applicant is entitled for compensation.

7. The Exhibits that were put forward included:



- (i) Ext.-1 the '*fardbeyan*' recorded at the Railways Hospital, Jamalpur;
- (ii) Ext.- A2 the letter of the Senior Divisional Medical Officer, Eastern Railway, Jamalpur dated 19.01.2013 addressed to the Medical Superintendent, P.M.C.H., Patna;
- (iii) the Ext.-A3 the O.T note dated 19.01.2013 issued by the Sri Ram Hospital, Patna;
- (iv) Ext.-4 the Discharge Report of Sri Ram Hospital, Patna dated 0102.2013;
- (v) Ext.-6 the disability certificate given by the Incharge Medical Officer, Lakhisarai Hospital.

8. 'The learned Tribunal' thereafter vide an order dated 13.01.2016 held that while the applicant was able to produce documents including the report of the Senior Divisional Medical Officer, Eastern Railways, Jamalpur as also the certificate of the Incharge Medical Officer, Lakhisarai Hospital, the respondent side failed to produce any document to show that it comes under the purview of Section 124(A)(a)-(e) of the Railways Act.

9. Accordingly, taking into account the facts and circumstances, the direction was given to the respondent to pay Rs. 2,70,000/- within two months at the 9% interest failing



which additional 2% will have to be paid.

10. Aggrieved, the present appeal was filed.

11. Mr. Kumar Sachin, learned counsel who represents the Railways submit that it was negligence on the part of the applicant-respondent herein inasmuch as per his own version he tried to alight while the train was on move and as such, he is/was not entitled for the compensation and 'the Tribunal' erroneously passed the order that needs to be interfered with.

12. This Court does not accept the said submission put forward by the learned counsel for the Railways inasmuch as it is the clear version of the applicant-respondent that there was rush in the train and as such, he was unable to move out of it and by the time he tried to alight, the train started rolling and due to jerk, he could not balance himself and accordingly, fell down and injured himself thus permanently losing his left leg below the knee.

13. As rightly held by 'the learned Tribunal', there is a report of the Senior Divisional Medical Officer, the Rail Hospital, Jamalpur addressed to the Medical Superintendent P.M.C.H., Patna which shows that the accident actually took place and accordingly, he was referred to Patna. Then, there is



the OT Report dated19.01.2013 as also the Discharge Report dated 01.02.2013 by the Sri Ram Hospital, Patna.

14. Lastly, there is the certificate of the Incharge Medical Officer, Lakhisarai Hospital showing his disability in which it has been recorded amputation of left leg below the knee.

15. Taking into account the aforesaid facts, this Court is of the considered view that ‘the learned Tribunal’ was completely justified in passing the order dated 13.01.2016 granting compensation to the respondent.

16. The M.A. No. 270 of 2016 fails and is accordingly, dismissed.

(Rajiv Roy, J)

neha/-

AFR/NAFR	NAFR
CAV DATE	NA
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