

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.854 of 2018

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Sri Bablu Kumar @ Chandan Kumar Singh S/o Jay Ram Singh, R/o Village-
Adai, P.O.- Konch, P.S.- Konch, District- Gaya Bihar.

... .. Appellant/s

Versus

Union Of India Through The General Manager, E. C. Railway, Hajipur, Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Raj Kishor Prasad, Advocate Mr.Lal Bahadur Singh, Advocate
For the Respondent/s	:	Mr. Tuhin Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 13-12-2022

Heard learned counsel for the appellant.

2. Mr. Tuhin Shankar, learned counsel for the
Railways, submits that a counter affidavit has been filed.

3. The present appeal is directed against the
order dated 26.6.2018 in O.A. No. 00015/2009 passed by
the learned Railway Claims Tribunal, Patna Bench, Patna
(henceforth for short ‘the Tribunal’).

4. The facts giving rise to the present case
is/are as follows :-

5. The appellant after purchasing a valid Ticket
(No. C-24553902) on 12.8.2008 was moving from Gaya
Junction to Kastha Railway Station by 301 Up (Asansol-
Varanasi Passenger) but at Gaya Railway Station itself as



the train started, due to jerk and excessive crowd, he fell down resulting into amputation of both his legs. He was taken to Railway Hospital, Gaya and thereafter referred to Anugraha Narayan Magadh Medical College and Hospital, Gaya and finally to Patna Medical College Hospital, Patna.

6. Accordingly, the O.A. No. 00015/2009 was filed. The Railways appeared and countered the claim of the appellant stating therein that he was not inside the train rather was sitting on the footrest and he fell down resulting into the accident which was his own doing and thus no claim can be entertained.

7. 'The Tribunal' thereafter framed issues and came to the finding that the appellant in his statement on 16.8.2008 failed to provide the details of the ticket. He also did not lodge any 'Sanha' and/or any police report and as such the certificate of Senior Divisional Medical Officer, East Central Railway Hospital, Gaya after six days does not prove the alleged accident.

8. Accordingly, the claim was negated.

9. Aggrieved, the present appeal was filed.

10. Learned counsel for the appellant submits



that once the appellant had filed a photocopy of the Railway Ticket dated 12.8.2008 and had put a statement on affidavit, the onus was on the Railways to prove otherwise. Further, it is ironical that a certificate of Senior Divisional Medical Officer, East Central Railway Hospital, Gaya, which is its own authority, has been negated only on the ground that it was issued on 18.8.2008 i.e. six days after the date of occurrence.

11. Having gone through the facts of the case as also order of 'the learned Tribunal' and the Lower Court Records, in the considered view of this Court, once the appellant had submitted the photocopy of the Railway Ticket and had made a statement that he was a bonafide passenger, it was the duty of the Railways to prove otherwise in view of the Hon'ble Apex Court decision in **Union of India Vs. Rina Devi** reported in **AIR-2018 SCC 2632**. It would be appropriate to incorporate the said observation :

"17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of



ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."

12. Further, admitted fact is that the appellant after accident was first taken to the Railways Hospital, Gaya and thereafter to Anugraha Narayan Magadh Medical College and Hospital, Gaya and finally to Patna Medical College Hospital, Patna but ultimately lost both his legs, 'the Tribunal' erred in rejecting his claim on technical grounds when there was a certificate by its own authority dated 18.8.2008. The mental condition of the appellant who lost both his legs in the accident can be very well ascertained inasmuch as under no circumstance, he could have gone to submit a 'Sanha' or lodge an FIR when he was battling for his life in different Hospitals. Instead, it was utter failure on the part of the Railway



Police in not taking appropriate steps after the accident occurred.

13. Taking into account all the aforesaid facts as also the reported judgment of **Union of India Vs. Rina Devi** reported in **AIR-2018 SCC 2632** (supra), this Court is of the view that the order dated 26.6.2018 passed by ‘the learned Tribunal’ in O.A. No. 00015/2009 has to be interfered with and is accordingly set aside.

14. The Railways are directed to pay a compensation of Rs. 4 lakh with 7.5% interest from the date of filing till the final payment is made and/or Rs. 8 lakh whichever is higher (in view of the Gazette Notification issued by the Ministry of Railways dated 22.12.2016).

15. With the aforesaid observations, the M.A. No. 854 of 2018 is allowed.

(Rajiv Roy, J)

Prakash/Ajay-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2022
Transmission Date	NA

