

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.316 of 2014

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Lal Babu @ Lal Babu Nat S/o - Late Dinanath, Resident of Village - Teja Bigha, P.O. and P.S. - Bakhityarpur, Distt. - Patna (Bihar).

... .. Appellant/s

Versus

The Union of India through the General Manager, East Central Railway, Hajipur (Vaishali).

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 14-10-2022

Heard learned counsel for the parties

The instant appeal under section 23 of the Railway Claims Tribunal Act, 1987 has been preferred against the order dated 9.4.2014 passed in Case no. OA 00200 of 2005 by the learned Member (Technical), Railway Claims Tribunal, Patna Bench at Patna whereby the petition of claim filed by the injured appellant was rejected.

The case of the appellant in brief is that the appellant on 28.1.2005 was travelling from Patna Junction to Teka Bigha Railway Station by 545 Down Danapur-Rajgir passenger train. He was holding a valid train ticket. While getting down from the train at Teka Bigha Railway Station as a result of an accidental fall, the left leg and left forearm of the appellant came under the wheels of the train and he was seriously injured. Part of his left



leg and left forearm of the appellant had to be amputated. It is further case of the appellant that having sustained grievous injuries in the accident he was brought by the Railway officials in an unconscious state to the Patna Medical College and Hospital, Patna (PMCH, Patna) on the date of accident ie on 28.1.2005. He underwent treatment and was ultimately discharged on 13.2.2005. Being ignorant about the steps that he was required to take, the appellant states that on being discharged he went home. Subsequently, on 17.5.2005, he came and gave his statement to the police of the Pirbahore Police Station on duty in the PMCH, Patna and his fardbeyan recorded on 17.5.2005 has been brought on record in the claim case. The appellant filed the copy of his treatment chart as also discharge slip which he received on request from the PMCH, Patna. Along with his photograph and other documents, the appellant on 16.8.2005 filed an application before the Railway Claims Tribunal, Patna Bench claiming compensation to the tune of Rs. 4 lacs.

By judgment dated 9.4.2014 passed in Case no. OA 00200 of 2005, the learned Member (Technical), Railway Claims Tribunal, Patna Bench was pleased to reject the claim case. It is against this order dated 9.4.2014 that the instant



appeal has been preferred.

It is submitted by learned counsel appearing for the appellant that the appellant was a bonafide passenger who met with an accident on 28.1.2005 leading to grievous injuries. In his statement on affidavit, the appellant having described himself to be a bonafide passenger, the requirement as held by the Hon'ble Supreme Court, so far as the appellant is concerned, has been discharged and it was now for the respondent-railways to prove the case otherwise. In support of his contention, learned counsel for the appellant relies on the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Rina Devi [2018(2) PLJR 447(SC)], Union of India vs. Prabhakaran Vijaya Kumar and others [2008 ACJ 1895] and Union of India vs. Pulluswamy Karupuswamy [2009 ACJ 280]. It is submitted by learned counsel that delay cannot be a ground for rejection of claim of the appellant. The learned Member erred in not considering the submissions made on behalf of the applicant-appellant. As such, it is prayed that the order impugned be set aside and the appeal be allowed.

The instant appeal is opposed by learned counsel appearing for the Railways. It is submitted that the injured applicant, not having produced any ticket, was a trespasser.



There is no justification for his complaint/statement having been given to the police three months after his discharge from the hospital. The medical certificate of the PMCH is neither signed nor stamped nor does it state as to where and when the injury took place. It is finally submitted that explanation to section 124 of the Railways Act, 1989 states that a passenger includes a person who has purchased a valid ticket for travelling. It is thus submitted that the learned Tribunal having rightly considered the materials on record and the submissions made on behalf of the parties had rightly rejected the claim case filed by the applicant-appellant. There being no illegality in the order impugned, the appeal be dismissed.

Having heard learned counsel for the parties and having perused the Lower Court records, it transpires that on 16.8.2005, an application under section 16 of the Act was filed by the applicant-appellant before the Railway Claims Tribunal, Patna Bench stating therein that the injured applicant who was a bonafide passenger having proper and valid second class ordinary ticket for journey from Patna Junction to Teka Bigha Railway Station had boarded the Danapur-Rajgir passenger train being Train no.545 Down on 28.1.2005. While getting down from the compartment at Teka Bigha Railway Station, as a result



of movement of the train, the applicant slipped and fell down as a result of which his left leg and left forearm was crushed by the wheels of the train. He became unconscious and on regaining consciousness, he found himself admitted in PMCH, Patna from where he was ultimately discharged on 13.2.2005. The case of the applicant is that he lost his money as also his ticket. His statement was recorded by the police on duty at PMCH on 17.5.2005 which was forwarded to the G.R.P., Bakhtiyarpur Railway Station where it was received on 31.5.2005.

On perusal of the Lower Court records, it transpires that the applicant-appellant filed his affidavit in evidence as witness no.1 in the claim case clearly stating therein that he was a passenger in Danapur-Rajgir passenger train (545 Down) on 28.1.2005 holding a valid train journey ticket for travelling from Patna Junction to Teka Bigha Railway Station. He stated about accidentally falling down from the moving train and the serious injuries caused to him leading to amputation of his left foot and left forearm above elbow. He also states about having been admitted in PMCH on 28.1.2005 for his treatment and being discharged on 13.2.2005. The applicant states about his statement being recorded by the police at PMCH, Patna on 17.5.2005 and that he should be paid compensation to the tune



of Rs.4 lacs. It may be stated here itself that along with his affidavit in evidence, the applicant also submitted other documents ie fardbeyan recorded by the police, medical records, discharge slip issued by PMCH, his photograph showing amputation, disability certificate, residential certificate etc.

The fardbeyan of the applicant which is marked as Annexure-1 shows that the same contains the statement of the applicant as also his left thumb impression. Further the same was forwarded from Police Station Pirbahore at Patna to Bakhtiyarpur where the same was entered as SDE no.846 dated 31.5.2005 in Rural Police Station, Bakhtiyarpur.

At this stage, it would be relevant to quote the relevant paragraph no.17.4 in the case of Rina Devi (supra) wherein the Hon'ble Supreme Court held as follows:

“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 bonafide 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 bonafide 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.”(emphasis supplied)

On perusal of the discharge slip issued in case of the applicant, it transpires that the same has been issued on request. The applicant was in the unit of Dr. (Capt.) D.K.Sinha and had undergone amputation of his foot and forearm as a result of railway accident. The same contains the initials of the doctor with the date 13.2.2005. The Court has also perused the photograph of the applicant which is part of the Lower Court records as also the copy of the certificate dated 9.5.2007 issued by the office of the Civil Surgeon-cum-Chief Medical Officer, Patna to the effect that the applicant underwent amputation of left upper limb below elbow upto 1/3 of forearm and amputation of left lower limb at ankle joint. The Lower Court record also contains the treatment chart of the applicant according to which he underwent treatment from 29.1.2005 to 12.2.2005 in the unit of Prof. Dr. D.K.Sinha at PMCH.

Thus, from the facts stated herein above as also the documents brought on record in the claim case which this Court had occasion to peruse along with the Lower Court records, it



transpires that the applicant, who was a passenger of Train no.545 Down (Danapur-Rajgir Passenger Train) and was travelling on 28.1.2005 from Patna Junction to Teka Bigha Railway Station, met with an accident at Teka Bigha Railway Station wherein his left leg and left forearm was crushed by the wheels of the train. He was taken to the PMCH, Patna in an unconscious state where he regained consciousness. He underwent treatment from 29.1.2005 and was discharged on 13.2.2005. He gave his statement which was recorded by the police at PMCH on 17.5.2005 and which on being forwarded was registered in the Rural Police Station at Bakhtiyarpur on 31.5.2005 as Station Diary Entry no.846.

In the opinion of the Court, the applicant having discharged his obligation with respect to claiming compensation, it was upon the respondent-Railways to bring on record materials to disprove the case of the applicant of his not having suffered the injury resulting in amputation of his leg and forearm in the train accident, as claimed by him. The same could have been done by bringing on record the final result of the investigation by the police on the fardbeyan of the applicant or from the original records of the hospital concerned ie PMCH, Patna. Not having done, in the opinion of this Court, the learned



Tribunal disbelieving the case of the applicant as narrated in his claim case merely for the reason of delay in lodging of his fardbeyan before the police and dismissing the claim case, is not sustainable.

Taking into consideration the documents brought on record including his affidavit in evidence, his treatment chart of having undergone treatment from 29.1.2005 to 12.2.2005 in the unit of Prof. Dr. D.K.Sinha, the discharge slip issued on 13.2.2005 stating about the amputation of the foot and forearm as a result of a railway accident, both the discharge slip and the treatment chart containing the same registration number ie 60/429 together with the photograph of the applicant and the certificate issued by the office of the Civil Surgeon-cum-Chief Medical Officer, Patna, in the opinion of the Court, the learned Member (Technical), Railway Claims Tribunal committed an error in rejecting the case of the applicant.

The order impugned dated 9.4.2014 passed in Case no.OA 00200/2005 by the learned Member (Technical), Railway Claims Tribunal, Patna Bench, being unsustainable, is hereby set aside.

The appeal is allowed.

The applicant-appellant is held entitled to compensation



of Rs.4 lacs which will be paid to the applicant-appellant within a period of three months from today.

The appellant will also be entitled to get interest at the rate of 6% per annum from the date of filing of the claim case till the date of its payment and in case the amount is not paid within the time stipulated herein above, the appellant will be entitled for interest at the rate of 9% per annum from the end of the aforesaid three months period till the date of payment.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	
Transmission Date	

