

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.343 of 2014

Mukesh Sah S/o Late Birbal Sah resident of village - Bara Bariyarpur, P.O.
Motihari, P.S. Chitauni, Distt. - East Champaran Bihar Appellant/s

Versus

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

... .. Respondent/s

Appearance :

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

For the Respondent/s : Mr. Shyam Bihari Singh, CGC

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 14-07-2022

Heard learned counsel for the appellant and learned
counsel for the respondents.

In the instant appeal filed under section 23 of the Railway
Claim Tribunal Act, 1987, the appellant has challenged the order
dated 2.1.2014 passed in claim petition no. MA(OA)00018/2003
by the learned Member (Technical) of the Railway Claims
Tribunal, Patna.

At the outset the case of the applicant is that he was
standing near the gate inside the over crowded coach of the train
no. 526 down Raxaul Samastipur Passenger. At the Sugauli
Railway Station the applicant was holding a valid train ticket.
On the train starting, he accidentally fell down from the train
and sustained multiple injuries. He was admitted to the Primary
Health Centre. Thereafter, he was brought to the PMCH, Patna
for better treatment. However, in course of treatment both his
legs below the knees were amputated.

The applicant filed claim application which was
registered as MA(OA)00018/2003. After hearing the parties and
considering the materials on record including the documentary
evidence i.e. memo issued by the Medial Officer In-charge,
Sugauli as also the fardbeyan etc, by order dated 2.1.2014 the



learned Tribunal was pleased to direct the respondent Railways to pay a sum of Rs. 2 lacs to the injured along with interest at the rate of 6 percent per annum from the date of condoning the delay i.e. 5.10.2012.

It is submitted by learned counsel for the appellant that the instant appeal has been preferred on a very limited point. He submits that it is not in dispute that the accident took place on 27.3.2002 and the claim application was filed on 22.7.2003 which is evident from the page no. 1 of the order itself.

It is submitted that there was a delay of about four months in filing of the claim application which was ultimately condoned by the learned Tribunal by order dated 5.10.2012. It is submitted that learned Tribunal in granting simple interest at the rate of 6 percent per annum from the date of condoning the delay i.e. 5.10.2012 has erred in law and submits that the interest should have been granted from the date of accident itself. In support of his contention learned counsel relies on the judgment in the case of Union of India vs. Rina Devi [2018 (2) PLJR 447 SC].

The appeal is opposed by learned counsel appearing for the Railways who challenging the order of the learned Tribunal, on merits, submits that from the contents of the order it would transpire that no accident took place on Sugauli station.

Having heard learned counsel for the parties and taking into consideration the material on record, it may be stated that so far as respondent Railways is concerned, no appeal has been preferred by them against the order impugned here. The submissions made on merits that there is no material of any accident having taken place at Sugauli Railway Station is fit to be rejected.

So far as the contention made on behalf of the appellant is concerned, the Court is of the opinion that the learned Tribunal



has committed error in allowing interest from the date of condonation of delay i.e. 5.10.2012. It is for the reason that when admittedly the claim application was filed and registered in the learned Tribunal on 22.7.2003, which is evident from top of page no. 1 of the order impugned itself, there is no basis as to why the interest be granted from the date of condonation of delay. Even in paragraph no. 18 of the judgment in the case of Rina Devi (supra) relied on on behalf of the appellant, the Hon'ble Supreme Court relying on the case of Thazhathe Purayil Sarabi vs. Union of India (2009 ACJ 2444) has held that rate of interest has to be at the rate of 6% per annum from the date of application till the date of award. It may be stated that further 9 percent interest was awarded thereafter. Further rate of interest of 9 percent has been granted in the case of Mohamadi versus Union of India. [(2011) ACJ 2356].

Having heard learned counsel for the parties and taking into consideration the ratio of the judgment discussed above together with the nature of injury as mentioned as per which one of the legs of the applicant was amputated, this Court holds that the applicant is entitled to interest at the rate of 9 percent per annum from the date of application till the date of actual payment. The total amount payable, after deducting amount already paid should be paid to the applicant within three months.

The appeal stands allowed to the above extent.

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

