

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.608 of 2014

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Ganesh Choudhary S/o Late Ram Chandra Choudhary Resident of Mohalla-
Main Road, Nagla P.S.-Malsalami, District-Patna.

... .. Appellant/s

Versus

The Union of India, through the General Manager, E.C. Railway, Hajipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Alok Kumar @ Alok Kr Shahi, Advocate

For the Respondent/s : Mr. Naresh Dixit, Advocate

Ms. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 08-12-2022

Heard Mr. Alok Kumar Shahi, learned counsel for
the appellant as also Mr. Naresh Dixit duly assisted by Ms.
Kalpana, learned counsel who represents the Railways.

2. Pursuant to the last order dated 10.11.2022, a
counter affidavit has been filed on behalf of the Railways.

3. The appeal is directed against the order dated
25.6.2014 passed by the Railway Claims Tribunal, Patna Bench,
Patna in O.A. No. 00083/2005 by which the claim of the
appellant was rejected.

4. The brief facts of the case is/are as follows:

5. On 5.2.2005, the deceased-appellant was having
a valid second class monthly season Ticket bearing Ticket No.
007561279 boarded the train No. 2367 (Bhagalpur-New Delhi



Vikram Shila Express) at Bakhtiyarpur Railway Station and was returning to Patna City. In course of de-boarding at Patna City, due to the crowd of the passengers, he fell down on the track that led to amputation of both his legs below the knee. The local people took him to Nalanda Medical College Hospital, Patna where he remained hospitalized for a quite long period and finally discharged on 28.4.2005. In between, he was operated on 4.3.2005.

6. Once he came out of the shock and injury, the O.A. No. 00083/2005 was filed before 'the learned Tribunal'.

7. 'The Tribunal' framed the following issues :

1. Whether the injured was a victim of the alleged untoward incident and whether the alleged untoward incident is covered under Section 123(c) of the Railways Act, 1989?

2. Whether the injured Ganesh Chaudhary was a bonafide passenger of train No. 2367 Up on 5.2.2005 at the time of the alleged untoward incident?

3. Whether the claim application of



the applicant is maintainable?

4. Whether the applicant is entitled to receive compensation, as claimed for?

8. In support of his case, the claimant-appellant herein put forward the following exhibits :

(i) exhibit-A/2- the 'Fardbeyan' given by him;

(ii) exhibit-A/3- the true copy of the said 'Fardbeyan';

(iii) exhibit-A/4- the monthly season Ticket No. 007561279 which was valid from 12.01.2005 to 11.02.2005;

(iv) exhibit-A/5- the discharge slip issued by Nalanda Medical College Hospital, Patna.

9. The Railways appeared and contested the matter and put forward the following exhibits:

(i) exhibit-R/01- there was no entry in the station diary about the said incident;

(ii) exhibit-R/02- the certificate given by the local Station Master and



according to the same, the train arrived at 17.00 hrs and left at 17.02 hrs. This, according to the Railways was not matching with the entry of the patient-claimant-respondent at Nalanda Medical College Hospital where it was given as 4:30 PM;

(iii) exhibit-A/5- the said admission of the claimant at Nalanda Medical College Hospital on 5.2.2005 at 16:30 hrs;

(iv) exhibit R/07- the reports showing train arrival at 17.00 hrs

10. 'The learned Tribunal' thereafter vide an order dated 25.06.2014 rejected the claim of the applicant holding that there is no reason to disbelieve the Railways version and if the certificate given by the Station Master is correct, the claim of the applicant cannot be accepted although it conceded that the accident may have occurred but the version is wrong.

11. Aggrieved, the present appeal has been filed.

12. Mr. Alok Kumar Shahi, learned counsel for



the appellant submits that as the applicant-appellant was injured having lost both his legs which got amputated due to the accident below the knee and accordingly his state of mind can very well be ascertained, the only thing that he could remember that the local people carried him to the Nalanda Medical College Hospital, Patna.

13. Further, learned counsel for the appellant has taken this Court to the counter affidavit filed on behalf of the Railways to show that even the claimant in his affidavit before 'the Tribunal' stated that the train reached the place around 5 PM. He as such submits that the said statement of the claimant matches with the certificate given by the Station Master about the train having arrived at the Patna Sahib Railway Station at 5' o clock and thus 'the Tribunal' should have taken into account the fact that it was not his statement before the Nalanda Medical College Hospital, Patna rather some staff there may have recorded wrong timing which cannot be the basis for rejection of the claim.

14. Mr. Naresh Dixit, learned counsel for the Railways submits that he had a conversation with the Senior Railways officials and according to them, they do not have any chart showing the movement of the train from destination to



destination.

15. He as such has relied upon the certificate given by the Station Master to submit that the timing of the arrival of the train at Patna Sahib Station does not match with the entry of the claimant-appellant in the Nalanda Medical College Hospital, Patna which formed the basis for the rejection of the claim.

16. This Court find force in the submission put forward by Mr. Alok Kumar Shahi that the statement of the claimant was that the train reached around 5 PM. How and under what circumstances, the same was recorded at 4.30 PM at Nalanda Medical College Hospital, Patna is not known but that cannot be the only basis for denial of the compensation in the background of the fact that the N.M.C.H., Patna, gave report about his entry on the date of accident i.e 5.2.2005 followed by his operation on 14.3.2005 and finally the discharge report on 28.4.2005.

17. Taking into account all the aforesaid facts in the considered view of the Court, 'the learned Tribunal' completely erred in denying the compensation amount to the appellant when admittedly there has been no denial that :

(i) he was a bonafide passenger having



monthly Ticket No. 007561279 having
validity period from 12.01.2005 to
11.02.2005 as also;

(ii) in course of his journey due to the push
and pull/crowd of the passengers while de-
boarding, he got injury and subsequent
amputation of both the legs below the knee.

18. In the result, the order dated 25.6.2014
passed by 'the Tribunal' in O.A. No. 00083/2005 is hereby set
aside.

19. The Railway Authorities are directed to pay
Rs. 4 lakh with 9 per cent interest from the date of the filing of
the application before 'the learned Tribunal' till the payment is
actually made, the process shall be completed within a period
of 60 days.

20. In the aforesaid circumstances, the M.A. No.
608 of 2014 is hereby allowed.

(Rajiv Roy, J)

Ravi/Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2022
Transmission Date	NA

