

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

FAO 317/2014

Date of Decision: 28.11.2022

IN THE MATTER OF:

SH. RANJEET KUMAR RAM Appellant

Through: Ms. Aruna Mehta, Advocate

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Rajesh Singh Chauhan, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present appeal filed under Section 23 of the Railway Act, 1989, the appellant/claimant has assailed the order dated 16.05.2014 passed by the Railway Claims Tribunal, Principal Bench, Delhi.

2. The appellant has claimed that he suffered an untoward incident on 05.03.2009 when after purchasing a valid journey ticket bearing No.J90389765 for travel from Delhi Sarai Rohilla, Railway Station to Patna junction, he fell from the moving train and suffered injuries.

3. Learned counsel for the appellant has contended that the Tribunal while rejecting the claim application, failed to appreciate the discharge slip placed on the record issued by the Patna Medical College Hospital, which shows that the appellant had remained admitted in the hospital from 06.03.2009 to 11.04.2009. It is further contended that the only reason for rejecting the claim application was that the details of the incident were given after much delay.

4. Learned counsel for the respondents, on the other hand, has supported the impugned order by submitting that the appellant had failed to establish that the injuries statedly suffered by him were on account of a train accident.

5. I have heard learned counsels for the parties and have also gone through the records of the Tribunal placed on the record.

6. A perusal of the paper book would show that earlier the claim application came to be dismissed vide order dated 15.09.2010 against which the appellant had preferred an appeal before this Court bearing FAO No. 248/2011. This Court while considering the prayer of the appellant to adduce additional evidence in the form of discharge slip, set aside the order dated 15.09.2010 and remanded back the matter to the Tribunal for fresh consideration. Thereafter, the appellant placed on record of the Tribunal, the aforesaid discharge slip however, after considering the matter afresh, the Tribunal again decided to reject the claim application vide the impugned order.

7. In the impugned order, it was noted that the appellant had produced a journey ticket however, it was not issued in the name of any specific person. It was further held that the appellant failed to establish that the injuries suffered by him were on account of a train accident.

8. As noted above, the appellant has claimed to have purchased a second-class journey ticket bearing No. J90389765 for travel from Delhi Sarai Rohilla, Railway Station to Patna Junction. It was further claimed that the appellant boarded the train 2388 Dn Jansadharan Express for the aforesaid journey and when the train reached between *Phulwari Sharif* and *Sachivalaya Halt*, he while standing on the gate of the compartment and on account of intense jostling amongst the passengers, lost his grip

and fell from the moving train. It was also claimed that the appellant suffered grievous injuries i.e., his right leg below knee was auto-amputated and his left leg was also auto-amputated near the toe

This Court, during the pendency of the present appeal, referred the appellant for fresh medical assessment to Deen Dayal Upadhyay (DDU) Hospital. A Disability Certificate dated 08.02.2018 has been placed on record issued by the DDU hospital which reads as under:-

"This is to certify that Sh. Ranjeet Kumar, Age 24 Years, Male, S/o Sh. Dhunmum Ram, KH No-47/15, Ranhola Extension Nangloi, Shafi Pur Ranhola, West Delhi, 110041. Whose Specimen Signature is given below is A case of Post Traumatic Above Knee Amputation upto Upper One third (1/3rd) of thigh Right with Amputation of 5th, 4th & 3rd toes on Left Side with Deformity and Scaring with permanent physical Disability of 81% (Eighty One Percent) in relation to Both Lower Limbs.

This disability is permanent in nature. It is recommended/advised that He/She may be given benefits as per rule."

9. In the proceedings before the Tribunal, the DRM report was also placed on the record wherein it has been recorded as under:-

"It is submitted in the reference of the above subject that the above case was investigated by the enquiry officer, Danapur and who had submitted his report vide letter no. Ref /RSUB/ DANA/ CEAR-ARCETE/ 09/ 7978 dated 17.09.2016. In the said report it has been mentioned that on 03.04.2009, the victim Ranjeet Kumar Ram @ Ranjeet Kumar s/o Shri Dhunmun Ram, R/o village Pachora, Police Station Harnaut Zila-Nalanda, Bihar in his statement given to local police station Pirbihor, as entered in the RCB ward of the PMCH that" I was doing labour (daily basis) work in Delhi for earning bread and butter of my family. On 05-03-2009, on the occasion of the Holi festival in order to reach his home, I purchased the ticket no. J90389765 of Jansadharan Express from Delhi Sarai

Rohilla to Patna junction and was going to Patna. In the course of the journey on 06-03-2009, in the morning when the train had crossed Phulwari Sharif station, after covering some distance and before Sachivalaya Halt, in order to get down at Patna station I came near the exit door and other passengers also came near the exit door as such there was rush of passengers near the exit door. Suddenly I fell from the running train and my right leg below knee and left leg near foot got cut under the train. When I shouted for help, the people near the accident sight saw me in the injured position and the person present therein took me in the tempo to PMCH for the treatment and got me admitted and also informed my family members on the mobile no. which was provided by me. In reference to above local police station Pirbihor sent the intimation to GRP Patna for taking necessary action. But as the case was very old and no document could be made available either by GRP Patna or the Station Master Phulwari Sharif. It was informed in the enquiry that victim was travelling from Delhi Sarai Rohallia to Patna by taking ordinary ticket and in hurry to reach home and he left his seat and also came to the exit door while the train was approaching Patna junction and in the course of journey he fall from moving train and due to the same his right leg below knee and left leg foot got cut under the train. It shows great negligence on the part of the victim/ applicant. Because the victim should have waited for the train to stop before getting down and same was not done by the victim. The Jansadharan Exp has considerable halt time at Patna junction. In the above circumstances and there is no liability on the part of the railway. The accident does not come in the category of untoward incident. The section 123 of the Act is not applicable in the present case. The enquiry Report of investigating officer Danapur is being submitted herewith."

10. It is pertinent to note that the discharge slip issued by the Orthopedic Department, Patna Medical College Hospital has not been denied. As per the discharge slip, the appellant remained admitted in the hospital from 06.03.2009 to 11.04.2009. The appellant while being

admitted, gave a statement to the SHO, PS Patna Junction Railway Distt., Patna on 03.04.2009 wherein the details of accident were given. The statement also bears the endorsement of the concerned doctor. It has not been denied that the train ticket was issued on the aforesaid date for the journey statedly undertaken by the appellant. The reason assigned for disbelieving the train ticket is that the same was not issued in the name of any specific person is erroneous as the ticket itself was a second-class general ticket which is not issued with a specific name.

The reason assigned in the DRM Report that the appellant had suffered injuries on account of his own negligence is also of no consequence in view of decision of the Supreme Court in Union of India v. Rina Devi reported as (2019) 3 SCC 572, wherein it was held that liability under Section 124-A of the Railways Act, 1989 is a strict, no-fault liability and the only exceptions are those provided under proviso to the said Section itself. Consequently, this Court is of the considered opinion that the Tribunal has erroneously arrived at the said conclusion. The validity of journey ticket having been established and no contrary material placed on record by the respondents, this Court is of the opinion that the appellant was a *bonafide* passenger and the incident suffered by him comes within the purview of an untoward incident as defined under Section 123(c) of the Railway Claims Tribunal Act.

11. Accordingly, the appeal is allowed and the impugned order is set aside. Consequently, the matter is remanded back to the Tribunal to award the compensation to the claimant in terms of the schedule within a period of three weeks from today. Let the parties appear before the Tribunal on 05.12.2022.

Digitally Signed
By:SANGEETA ANAND
Signing Date:30.11.2022
13:13:45

12. The appeal is disposed of in the above terms. Miscellaneous application, if any, is disposed of.

13. A copy of this judgment be communicated to the concerned Tribunal for information.

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER 28, 2022

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