



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

MISC. CIVIL APPLICATION NO. 989 OF 2024
in FIRST APPEAL NO. 1243 OF 2009 (D)

SK. WASIM S/o SK. PASHA

VERSUS

THE UNION OF INDIA, GEN. MANAGER, SOUTH CENTRAL RLY., SECUNDERABAD

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. D. S. Lambat, Advocate for applicant
Ms. Neerja G. Chaubey, Advocate for the non-applicant.

CORAM : G. A. SANAP, J.

DATE : FEBRUARY 18, 2025.

1. Heard Mr. D. S. Lambat, learned advocate for the applicant/original respondent and Ms. Neerja Chaubey, learned advocate for the non-applicant/Railways (original appellant).

2. This is an application filed by the original respondent seeking review of the order dated 09.10.2023 passed in First Appeal No. 1243/2009.

3. It is submitted that this Court, relying upon the decision of the Hon'ble Apex Court in *Union of India .vs. Radha Yadav*, reported at *(2019) 3 SCC 410*, has directed the Railways to pay total compensation of Rs.4,80,000/- (Rupees Four lakhs Eighty thousand only). Learned advocate submitted that it is a case of double amputation covered under Item (3) of Part-II of the Schedule appended to the Railways Accidents and Untoward Incidents

(Compensation) Rules, 1990 (hereinafter referred to as “*the Rules of 1990*” for short). It is stated that the appeal was withdrawn by the Railways and while granting permission to withdraw the appeal, this Court has enhanced the compensation from Rs.2,40,000/- to Rs.4,80,000/-. It is submitted that in view of the undisputed factual position that it was a case of double amputation, the compensation ought to have been awarded in terms of Item 3 of Part-II of the Schedule appended to the Rules of 1990.

4. Learned advocate for the non-applicant/Railways has pointed out that separate compensation was awarded by the Tribunal for amputation of both the legs under Items 19 and 25 of Part-III of the Schedule to the Rules of 1990.

5. It is undisputed that the case in question is of double amputation. The case of double amputation would be covered under Item (3) of Part II of the Schedule to the Rules of 1990. For the purpose of appreciation of the submission, Item 3 of Part II of the Schedule is extracted below :

Part II		Amt. of Compensation
(1), (2)		
(3)	For double amputation through leg or thigh or amputation through leg or thigh on one side and loss of other foot.	Rs.8,00,000/-

6. It is necessary to state that on withdrawal of the

appeal by the Railways, the claimant was found entitled to get higher compensation in view of the Notification of the Ministry of Railways (Railway Board), dated 22.12.2016 as well as the decision of the Hon'ble Apex Court in *Radha Yadav (supra)*. A finding has been recorded by the Tribunal that it is case of double amputation. In my view, therefore, the mistake, which has occurred, needs to be rectified.

7. The Misc. Civil Application for review is accordingly allowed.

8. The non-applicant-Railway (original appellant) is directed to pay total compensation of Rs.8,00,000/- (Rupees Eight lakhs only) to the applicant/original respondent.

9. The non-applicant/Railways has already deposited Rs.3,84,550/- before disposal of the appeal and Rs.95,450/- after decision of the appeal vide order dated 09.10.2023. The non-applicant/Railways shall deposit the balance amount of Rs.3,20,000/- (Rupees Three lakh Twenty thousand only) within four months from today.

10. The application stands disposed of in the above terms.

(G. A. SANAP, J.)