
(2012) 07 PAT CK 0026
In the Patna High Court
Case No : Misc. App. No. 3 of 2012

Md. Leyaqaat Ansari

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 06-07-2012

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23

Citation : (2012) 4 PLJR 390

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Advocate : Krishna Mohan Murari, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar, J.—Heard Sri Krishna Mohan Murari, learned counsel for the appellant and Sri Sunil Kumar Ravi, learned counsel, appearing on behalf of Union of India through General Manager, East Central Railway, Hazipur/the sole Respondent. The present appeal has been preferred u/s 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as "the Act"), against order dated 22.9.2011 passed in Claim Application No. OA0008 of 2010 by Sri J.D. Goswami, learned Member (Technical), Railway Claims Tribunal, Patna Bench, Patna (hereinafter referred to as "the Claims Tribunal"). It has been pleaded that the Claims Tribunal despite the fact that the son of the appellant was entitled to get compensation for non-schedule injuries also has granted compensation for an amount of Rs. 2,00,000/- under the schedule injury contained in schedule 20 of the schedule to THE RAILWAY ACCIDENTS AND UNTOWARD INCIDENTS (COMPENSATION) RULES, 1990 (hereinafter referred to as the "RULES 1990"). The son of the appellant was minor. On 20.1.2009, while he boarded a passenger train i.e. 745UP on a valid railway ticket at Kudra Railway Station, due to heavy rush and jerk, he fell from running train and he got grievous injuries. Subsequently, left leg below knee of the son of the appellant namely Najakat Ansari was got amputated. In the said accident he also received fractured

injuries on the right leg and other lacerated injuries. Subsequently, the injured was medically examined and he was also examined by the Medical Board. Regarding his disablement the Board granted certificate showing disability up to 80%. The certificate, which was produced and marked as Exhibit-"A6" makes it clear that there was amputation of left leg and also deformity of the right foot and ankle-joint. Finally, a claim case was filed before the Claims Tribunal claiming compensation in view of provisions contained in RULES 1990. The learned Claims Tribunal after examining the materials on record and evidences by the impugned order allowed the claim case and directed for paying compensation of Rs. 2,00,000/- in view of injury of amputation of left leg below knee. Aggrieved with the order of the Claims Tribunal to the extent of non-granting compensation in respect of non-schedule injury, the appellant preferred the present appeal.

2. It was submitted by Sri Murari, learned counsel for the appellant, that Rule 3(3) of RULES 1990 makes it clear that in case of non-schedule injury, which is not sufficient for depriving the injured from all capacity of work, maximum compensation amount up to Rs. 80,000/- is required to be paid. He submits that injury which is non-schedule sustained by the injured is sufficient for granting compensation under aforesaid provision for maximum amount i.e. Rs. 80,000/-. He submits that the Claims Tribunal while allowing the claim case has not at all considered or discussed on non-schedule injuries nor it has granted the same and as such, it was prayed that the appellant is entitled to get the compensation amount under the non-schedule injury. In support of his argument learned counsel for the appellant has placed reliance on an unreported oral judgment of a Single Bench of this Court dated 6.3.2012 passed in Miscellaneous Appeal No. 633 of 2008.

3. Sri Sunil Kumar Ravi, learned counsel for the Respondent has tried to defend the order of the Claims Tribunal and submits that injury which has been claimed as non-schedule injury sustained by the injured is not enough for attracting any compensation. He further submits that even in case this Court is inclined to interfere, in that event, this Court may remand the matter to the Claims Tribunal for adjudicating the issue.

4. Besides hearing the parties, I have also examined Lower Court Record. From the record it is evident that all the injury reports as well as disablement certificates are already on record. In view of the fact that entire evidence is already on record, it would not be appropriate for this Court to remand the matter back to the Claims Tribunal for its adjudication. Fact remains that learned Claims Tribunal has not considered the claim of compensation on non-schedule injury. Rule 3(3) of "RULES 1990" makes it clear that in such injury, not debarring the injured from permanent work, the injured can be granted compensation but not above Rs. 80,000/-.

5. In view of nature of injuries as per injury report and disablement certificate, the Court is satisfied that Rs. 40,000/- would be just and proper for non-schedule injury, and as such, the appeal stands allowed with direction to the

Respondent to pay further Rs. 40,000/- regarding the second injury i.e. non-schedule injury of the injured to the appellant with interest at the rate of 6% per annum which is to be calculated from the date of filing of the claim case till the date of its payment. With above observation and direction the appeal stands allowed.