
(2012) 03 PAT CK 0089

In the Patna High Court

Case No : Miscellaneous Appeal No. 633 of 2008

Md. Mahafuj Ali

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 06-03-2012

Acts Referred:

Citation : (2012) 03 PAT CK 0089

Hon'ble Judges : Shailesh Kumar Sinha, J

Bench : Single Bench

Judgement

Honorable Mr. Justice Shailesh Kumar Sinha

1. This appeal is directed against the order dated 26.05.2008 in Claim Case No. OA 9800218 (218/1998) passed by Railway Claims Tribunal, Patna Bench (hereinafter referred to as the "Tribunal").

2. The Tribunal upon considering the claim of the appellant allowed the claim of Rs. 1,60,000/- in terms of Schedule II (22) of The Railway Accident and Untoward Incident (Compensation) Rules, 1990 (hereinafter referred to as the "Compensation Rules").

3. Learned counsel for the appellant submits that while allowing the claim the learned Tribunal although allowed the claim for amputation of left leg of the appellant six inches below the knee, however, failed to allow any compensation with respect to the series fracture of the right upper limb in the said untoward incident, as mentioned in the medical report of Kalpana Nursing Home vide Exhibit-A/3. It is further submitted that the Tribunal ought to have allowed at least a total compensation of rupees two lacs for the amputation of leg as also for the grievous fracture of his right hand. Learned counsel further submits that the Tribunal awarded the amount without any interest and in support of his claim for interest refers to a decision of the Apex Court in the case of Thazhathi Purayil Sambi & Ors. Vs. Union of India & Another, as reported in AIR 2009 (SC) (Paragraph 23).

4. Mr. Anil Singh, learned counsel appearing for the Railway Administration submits that in view of the submissions of the appellant that no compensation has been allowed for the fracture of his right hand, the matter be remitted to the Tribunal.

5. The facts are not in dispute that the appellant sustained the injury resulting into amputation of his left leg and serious fracture of his right upper limb as would be appearing from the medical report vide Exhibit-A/3 while taking the journey from Mansi Junction to Gadhpura Railway Station by train No. 343 UP (Saharsa-Samastipur Passenger). In the incident in question the injured fell down from the said train due to the rush of the passengers who were trying to get down from the train at Salona Railway Station.

6. The submission of the learned counsel for the Railway that the matter be remanded to the Tribunal for determining the compensation on account of the fracture of the hand, I am not inclined to remand the matter since the evidences are already on the record with respect to the injury sustained by the appellant in his right hand as would be appearing from the medical report vide Exhibit-A/3 as also other evidence on the record which are not in dispute. Therefore, considering the nature of injury sustained by the appellant as mentioned in the injury report as also the other evidence on the record this Court is of the opinion that the appellant is further entitled to a compensation of Rs. 32000/- in terms of Schedule II (Clause 34) of the aforesaid Compensation Rules. I order accordingly. The award under the appeal is modified directing the respondent-Railway authority to pay a further amount of Rs. 32000/- within a period of two months. It is further directed that the amount of Rs. 1,60,000/- as awarded by the Tribunal shall carry simple interest @ 6 % per annum from the date of making the claim application till the date the aforesaid sum of Rs. 1,60,000/- was paid besides the above same rate of interest shall carry over the additional compensation amount of Rs. 32000/- as allowed by this Court from the date of filing of claim application till the date of its payment.

7. In the circumstances, the appeal is disposed of as indicated above. No costs.