

(1986) 11 AHC CK 0010
In the Allahabad High Court

Sankar Ball

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 07-11-1986

Acts Referred:

Railways Act, 1890 — Section 82A

Citation : (1987) 2 ACC 49

Hon'ble Judges : D.S. Sinha, J

Bench : Single Bench

Judgement

D.S. Sinha, J.—The appellant was a bona-fide passenger on 103 UP Delux Express and he sustained multiple injuries as a result of the collision which took place between the said train and UP CPC Special at Naini Railway Station on 10th October, 1977 at 0.15 hours. The appellant filed an application for compensation u/s 82-A of the Indian Railways Act, 1890, hereinafter called the Act.

2. The Adhoc Claims Commissioner, Northern Railway, Allahabad by means of his judgment and order dated 20th May, 1978, allowed the claim of the appellant but awarded a sum of Rs. 4,000/- only as compensation for all the injuries sustained by the appellant.

3. Feeling aggrieved by the adjudication regarding quantum of compensation the appellant has filed the instant appeal.

4. I have heard Sri P.K. Mukerji and Sri Lalji Sinha, learned Counsel for the appellant and respondent respectively.

5. It is not disputed that the appellant received three kinds of injuries and out of the said injuries two were of very serious nature, though unscheduled. In one of the injuries sustained by the appellant in his left foot septic developed with the result the appellant had to remain in hospital during the period between 10th October, 1977 and 14th November, 1977. The third injury sustained by the appellant was a fracture of the pelvis.

6. A perusal of the decision of the Adhoc Claims Commissioner on issue No. 3 indicates that while determining the compensation he was solely guided by the provisions of Sub-rule (3) of Rule 6 of the Railway Accidents Compensation Rules, 1950 and proviso thereto, made by the Central Government in exercise of the powers conferred by Section 82-J of the Act. These rules shall, hereinafter, be referred to as "the rules".

7. Sub-rule (3) of Rule 6 provides that the amount of compensation in respect of any injury other than an injury specified in the schedule or referred to in Sub-rule (2) of the rules under reference resulting in pain and suffering shall be such as the Claims Commissioner, may, in all the circumstances of the case, determine to be reasonable and proviso to this rule provides that the compensation awarded under Sub-rule (3) of Rule 6 should in no case exceed Rs. 10,000/-.

8. A bare reading of the provisions of Sub-rule (3) of Rule 6 of the Rules and its proviso indicates that they cover the case of single personal injury.

9. Sub-rule (4) of Rule 6 contemplates that where more than one injury is caused by the same accident, compensation shall be payable in respect of each injury.

10. Thus in case where the victim suffers more than one non-scheduled personal injury caused by the same accident the provisions of Sub-rule (4) of Rule 6 are also attracted and the compensation has to be determined in accordance with the provisions of Sub-rule (3) and Sub-rule (4), read together. Accordingly, the victim may be awarded compensation to the tune of Rs. 10,000/- for each of the injuries covered by these rules.

11. In view of the fact that Sub-rule (4) of Rule 6 of the said rule has been completely over-looked by the Adhoc Claims Commissioner while awarding compensation to the appellant, the impugned determination becomes illegal.

12. As a matter of fact, on a rational interpretation of Sub-rule (3), its proviso and Sub-rule (4) of the rules, the appellant could be granted compensation upto Rs. 10,000/- for each of the two injuries of serious nature sustained by him. Thus the maximum limit in the case of the appellant would be Rs. 20,000/- and not Rs. 10,000/- as found by the Adhoc Claims Commissioner.

13. However, considering the totality of the circumstances, I feel that the appropriate total compensation payable to the appellant should be Rs. 15,000/- in all, including for the minor injury and loss of goods etc.

14. The appeal is, therefore, allowed. The judgment of the Adhoc Claims Commissioner dated 20th May, 1978 is modified to the extent that the appellant shall be entitled to a sum of Rs. 15,000/- in all, for the injuries sustained by him in the accident in question.

15. Sri Lalji Sinha, learned Counsel appearing for the respondent, informs that a sum of Rs. 4,000/- has already been paid to the appellant and this has not been

disputed by the learned Counsel for the appellant. The balance of Rs. 11,000/- shall be paid to the appellant by the respondent within three months of the production of a certified copy of this judgment before its relevant authority. The parties shall bear their own costs.

16. A certified copy of this judgment shall be issued to the learned Counsel for the parties expeditiously on payment of usual charges.