

BEFORE THE RAILWAY CLAIMS TRIBUNAL,
RANCHI BENCH.

Case No.OA(IIU)/RNC/20/2022

Check List No.2908220003

Date of incident : 24.12.2021

Date of filing : 25.07.2022

Date of judgement:13.10.2023

Sri Rishikesh Dubey, aged about 32 years, son of Late Bhola Nath Dubey.

Residents of Village/Mohalla : Pabia, PO& PS- Narayanpur, Dist- Jamtara, Pin
Code- 815351 (Jharkhand).

----- Applicant

Versus

Union of India through the General Manager, Eastern Railway, Kolkata.

----- Respondent

CORAM : Sri Vinay Goel, Member (Judicial)/RCT/Ranchi.

Sri Dhruv Singh, Member (Technical)/RCT/Ranchi.

Sri V.S., Ld. Counsel for the Applicant.

Sri Sudhir Kumar Srivastava, Ld. Counsel for the Respondent.

J U D G E M E N T

1. This original claim application has been filed by Sri Rishikesh Dubey under Section-16 of the Railway Claims Tribunal Act, 1987 claiming compensation from Railway Administration for his alleged injuries sustained by him during the course of alleged journey and alleged untoward incident as narrated in the Original Application.

02. Brief facts of the case : It is alleged in the OA that on 24.12.21 the applicant, Sri Rishikesh Dubey was travelling in train no. 53448 Jasidih to Asansol passenger train after purchasing ticket no. 30892907 dated 24.12.2021 and during the said travel the applicant accidentally fell down from the running train in mid-section and suffered injuries on his lower limbs. The uncle and his brother accompanied him to the hospital and he remained admitted in Sadar Hospital, Jamtara till 6:30 p.m. on 24.12.2021. Thereafter, he was referred to Patna Medical College and Hospital, Dhanbad and he remained there from 25.12.2021 to 07.01.2022. Thereafter, in Mission Hospital, Durgapur from 17.01.2022 to 25.01.2022. MLR was registered at 6:30 p.m. on 24.12.2021 and applicant has claimed compensation of Rs. 8 lakhs on account of amputation of both his legs.

03. Respondent's reply: Respondent has appeared and filed its written statement and denied its liability. Respondent Railway has denied bona fide passenger status and untoward incident. It has been pleaded that no railway ticket was found from the possession of the applicant. It has been also pleaded that train no. 03538 JSME-ANDAL DMU passenger does not go to Asansol.

04. Issue: From the pleadings of the parties, the following issues were framed on 24.01.2023 by the Tribunal for determination:-

1. Whether the Rishikesh Dubey, was a bonafide passenger as alleged?

2. Whether any train accident as defined under 123(c)(2) of the Railways Act, 1989 happened with Jasidih Asansol Passenger Train and Tr.No.53548 on 24.12.2021?
3. Whether the applicant has sustained grievous injury or minor injury in the accident?
4. Whether any compensation relief has already been extended to the victim?
5. Whether the applicant is entitled for the compensation as claimed and other relief, if any?

05. Applicant's Evidence: The injured applicant/claimant Sri Rishikesh Dubey appeared as AW-1 and he has been cross-examined by the Respondent counsel and discharged. In support of his pleadings he has filed the photo copies of the (1) Original journey ticket (2) Photocopy of Aadhar Card of Applicant (3) Photocopy of Station diary, of station master, Jamtara (4) Photocopy of informatory petition sent to the local point (5) Photocopy of doctors prescriptions, medical report, medical bill and X-ray report etc. (6) Photocopy of Disability certificate, granted by Civil Surgeon, Jamtara, State of Jharkhand. (7) Photo copy of Bank passbook of applicant and full size of photograph of the applicant

The applicant Rishikesh Dubey appeared as AW(1) before this Tribunal. He was cross-examined and discharged by the Ld.Counsel for the respondent.

06. Respondent's Evidence: The Respondent Railway on the other hand have filed the DRM's statutory investigation report along with other relevant documents and has produced two Respondent evidences namely Sri S.D.

Pathak/ASI/Post/RPF/Jamtara as RW-1 and Sri Shiv Kumar Singh/Loco Pilot/LP/G/MDP as RW-2 who were examined in-chief and cross-examined by both the learned Counsels.

07. F I N D I N G S: We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of the applicants as well as documentary evidence filed by the respondent and heard the arguments of both the sides.

08. Issues No.1 & 2

Both these issues have been taken up together as they are interlinked :-

We have heard both the sides and gone through the records. Ld. Counsel for the applicant submitted that applicant himself has stated on oath about the incident and purchase of ticket so no other proof is required and applicant is entitled to compensation. Admittedly, the applicant has proved one railway ticket from Jasidih to Asansol bearing no. 50892907 for one adult person which was purchased on 24.12.2021 at 12:20 p.m. Admittedly, in this case applicant was admitted to Sadar Hospital, Jamtara at about 6:30 p.m. on 24.12.2021 and Station Master issued a memo at 16:43 p.m. as per information received from Loco Pilot of train no. 03538. Therefore, incident happened at about 16:34p.m. whereas the ticket was purchased at 12:20 p.m. The distance between alleged originating station and place of incident is 70 KMs approximately and approximately journey time is about 01

hour 10 minutes. There is no explanation or clarification from the applicant as to why he waited for the train for such a long time when there were ample local and other trains available between the two stations on that date.

The accident happened in mid-section at k.m. no. 259/12 after departure of train from the station. As per loco pilot, one person suddenly came before the engine on the down line at 16:34 p.m. and was run over. The ticket produced is from Jasidih to Asansol but there is no explanation from the applicant side as to why he came on the down line at K.M. no. 259/12 if he was travelling in a train from Jasidih to Asansol. There was no reason to come before the loco engine in mid-section.

Although the applicant has appeared before this Tribunal and has deposed on the lines of the case set up in the OA, but ultimately the respondent has produced RW-1 & RW-2 who have categorically stated that at K.M. No. 259/12 one person came before the running train. The Loco Pilot immediately gave intimation to the Railway Authorities. The loco pilot has himself stepped into the witness box and proved and deposed about the incident as to how the incident happened on the fateful day. There is no reason to disbelieve the evidence of the loco pilot who in his ordinary course of working gave intimation to the railway authorities about the incident and there is no dispute between the parties that the incident happened at K.M. No. 259/12 at 16:34 p.m.

In view of the facts established above, we can well presume that the ticket so produced by the applicant along with OA is nothing but a manipulated ticket and has been filed just to create bona fide passenger status and to show travel. Even, otherwise the ticket so produced is of some other route whereas the train with which the incident happened runs on some other route.

It is the case of the applicant that he was traveling in train no. 53548 Jasidih Asansol Passenger but he came before the engine of train no. 03538. So the applicant was not a bona fide passenger of the train with which he met with the accident.

The applicant gave following statement during DRM's Enquiry:- पूछने पर मैं रिश्रीकेश दुबे स्वेच्छा पुर्वक बयान देता हूँ कि दिनांक 28.12.2022 को मैं जयसीडीह से आसनसोल बाका अंडाल सवारी गाडी से दवा लेने के लिए जा रहे थे। मुझे लगभग 15 साल से चक्कर आने की बिमारी है जिसका इलाज मैं काफी पहले सीएमसी/वेल्लोर में कराया था। लेकिन स्वस्थ नहीं हो पाया। अभी मैं अपना इलाज एम्स देवघर से करा रहा हूँ। दिनांक 24.12.21 को दवा लाने के लिए जयसीडीह से आसनसोल जा रहा था और गेट के पास खड़ा था। जब उक्त गाडी कासीढाड स्टेशन के डाउन प्लेटफार्म से खुला तो मुझे अचानक चक्कर आ गया और मैं ट्रेन से गिर गया और मेरा दोनों पैर ट्रेन से कट गया और मैं बेहोश हो गया। जब मुझे होश आया तो मुझे पता चला कि मैं दुर्गापूर के मिशन अस्पताल में हूँ। मेरा इलाज लगभग एक महीना उक्त अस्पताल में हुआ। अभी भी मेरा दवा वहीं संचल रहा है। इस घटना में किसी का कोई दोष नहीं है यह घटना मेरी बिमारी के कारण घटित हुआ है।

In DRM's Enquiry, Railway Authorities came to the following conclusion:-

“On the basis of documentary and circumstantial evidence, it is clear that the actual cause of incident of the victim is jumped in front of Engine of train no.

03538 and sustained injury which also confirmed by Loco pilot of train no. 03538 Dn eyewitness of the incident. Similarly no Railway ticket was found from the possession of the deceased. The incident does not fall under the definition of untoward incident.”

Although the respondent has not confronted the applicant with discrepancies between his statement and the case set up in the OA, but certainly under the given circumstances, this Tribunal can certainly take judicial notice of such discrepancies to impart justice.

The technicalities of law should not hinder the process of administration of justice, as per settled principle of law.

Keeping in view all facts and circumstances, it appears that the applicant somehow came before a running train deliberately or otherwise and suffered injuries on both his legs and thereafter with a view to claim compensation, he has concocted a story of travel on a ticket. We have full sympathy with the applicant but at the end of the day we have to follow the laid down rules & regulations and every accident on a railway track would not come under Chapter 13 of the Railways Act. This case would come within the exceptions of Section 124-A of the Railways Act and within the ambit of a self-inflicted injury or incident other than an untoward incident. There is no evidence that the applicant ever travelled on

train no. 03538 and accidentally fell down from the said running train. Further, the ticket produced cannot be connected with the alleged incident. So the applicant at the time of the accident was neither a bona fide passenger nor did he suffer injuries on account of any untoward incident. Both these issues are decided against the appellant and in favour of the respondent.

09. Issues No.3, 4 & 5 :-

The applicant Sri Rishikesh Dubey lost his legs and the injury would come within the ambit of grievous injuries.

There is no evidence that the applicant ever received any compensation for alleged incident but due to findings recorded for issues no. 1 & 2, claim of the applicant merits dismissal and same is dismissed accordingly.

Given under our hand on seal of this Tribunal on this day of 13.10.2023.

Dictated on 13.10.2023.

Pronounced in Open Court.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
13.10.2023.

(VINAY GOEL)
Member (Judicial)
RCT/Ranchi
13.10.2023.

Corrected and signed by us on 13.10.2023.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
13.10.2023.

(VINAY GOEL)
Member (Judicial)
RCT/Ranchi.
13.10.2023.