

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.212 of 2013

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Vijaya Devi W/O Late Krishna Sao Resident Of Village- Akbarpur, P.S- Akbarpur,
District- Rohtas.

.... Appellant/s

Versus

1. The Union Of India, Through The General Manager, Eastern Railway, Kolkata.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anant Kumar, Adv.

For the Respondent/s : Mr. Anil Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-12-2015

In the present case, appellant is challenging the judgment/order dated 4th January 2013 passed by the Member, (Technical), Claims Tribunal, Patna in Case No. OA 188 of 2002 whereby and whereunder the court below has found that it is not a case of untoward incident, rather it is a case of run over, has refused to grant any relief.

As per the case filed by the claimant on 19th May 2002 deceased was going to Dehri-on-Sone from Anugrah Narayan Road Railway Station with valid ticket. Accordingly, the victim boarded in Train No. 051 Up, Mughalsarai Gaya passenger train at Anugrah Narayan Railway Station. As the train started on account of commotion and jostling of the passengers, the victim fell down from the running train, which led to his death.

After information, the Station Master issued Memo dated 19th May 2002 informing that one person has been run over in between Km. 539/09-11 near A.N.Road Railway Station and requested for disposal of the dead body. Accordingly, U.D.Case No.12 of 2002 was registered and Police after



investigation, submitted final form, recording that during the investigation, brother in-law (Sarhu) of the deceased stated that he could know about the death of his brother in-law on the information given by the villager and could know that the victim died on account of train accident on falling from the running train. After information, the dead body was handed over to the family members, reason has been assigned that on account of over crowd he (deceased) could not hold proper grip which led to fall from the running train. Apart from the criminal case, the wife of the victim filed the present case claiming that as the death was due to untoward incident in terms of Section 123 (c) of the Railway Act 1989, as such, she is entitled to compensation.

The Railway administration has filed a rejoinder statement having no substantial denial of statement made therein. Counsel for the Railway Administration has pointed out that the body of the victim was found in mutilated condition as the hands and other parts of the body were separated from the main trunk, so much so that the head of the victim was completely smashed turned to powder, the body of victim could not be in such position in the event of fall from the running train.

He has also pointed out the interpolation in the inquest report where it has been added that during investigation Police could identify the victim and inserted his name and address. The P.M. Report also suggests that the dead body is in such a bad condition it cannot be due to fall from the running train.

Having considered the nature of the body found to be in a very mutilated condition, the submission of the counsel for the Railways, that place of accident, indicates victim had gone to the place of his brother in-law when such incident had taken place. Submission of counsel for Railways cannot be brushed aside, as it appears to this Court that victim had gone to place of brother-in-law,

and there victim had come in trap of running train that led to his death.

In such view of the matter, this Court does not find any merit in the present case. This appeal is, accordingly, dismissed.

The Office is directed to remit back the lower court records forthwith.

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(Shivaji Pandey, J)