

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No. 52 of 2013

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Smt. Gangajal Devi W/o Late Ramashish Yadav, resident of
village:- Patherhat, P.S. Dhanarua, Distt. - Patna (Bihar)

.... Appellant

Versus

The Union of India through the General Manager, Eastern
Railway, 3 - Koelaghat Street, Kolkata – 700001.

.... Respondent

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Appearance :

For the Appellant : Mr. Krishna Mohan Murari

For the Respondent : Mr. Anil Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
CAV ORDER

5. 23-03-2015 The present appeal under Section 23 of the
Railway Claims Tribunal Act, 1987 (hereinafter referred to
as “RCT Act”) has been preferred against the order dated
27-11-2012 passed in Claim Application No. OA 00254 of
2002 by Sri J.D. Goswami, learned Member (Technical) of
the Railway Claims Tribunal, Patna Bench, Patna
(hereinafter referred to as “Claims Tribunal”). By the said
order, the learned Claims Tribunal has rejected the claim
application filed on behalf of claimant/appellant under
Section 125 of the Railways Act, 1989 read with Section
16 of the RCT Act.

Short fact of the case is that on 30-09-2002, an
application under Section 16 of the RCT Act was filed by
the claimant/appellant disclosing therein that on



04-06-2002, she alongwith her deceased husband namely Ramashish Yadav and other villagers were going to Nawada from Sadishopur. After purchasing valid railway tickets, they boarded the train, bearing no. 562 Dn. at Sadishopur, however; due to heavy rush inside the compartment, the husband of the claimant fell down from the running train and died on the spot itself. The matter was reported to the police and accordingly, a U.D. Case No. 03 of 2002 was registered by Rail Police Station, Danapur. During investigation, it was found that the death had occurred in an untowards incident. Accordingly, the claimant/appellant claimed total compensation amount of Rs. 4,00,000/- (four lacs). It was further indicated in the application that evidences/witnesses will be produced at the time of hearing of the said case. Since the claim application was filed within time, same was registered on 30-09-2002 itself as OA 00254 of 2002 and notices were directed to be issued. Before the learned Claims Tribunal, the respondent/Union of India through the Eastern Railway, Kolkata filed a written statement through the Senior Commercial Manager/Court, Eastern Railway, Kolkata. In the written statement, the respondent/Railway claimed



that the alleged incident was not an untowards incident in terms of Section 123 of the Railways Act, 1989 and denied the fact that deceased accidentally fell down from Train No. 562 Dn. at Sadishopur Railway Station on 04-06-2002. It has also been claimed that neither ticket was produced nor was seized by the G.R.P. during the investigation. In sum and substances, the case of claimant was denied by the respondent/Railway through its written statement. Save and except written statement, no other material was brought on record on behalf of respondent/Railway to demolish the case of the claimant. The learned Claims Tribunal, after hearing the parties, had framed issues, which are as follows:-

1. **Whether the deceased was a victim of the alleged untoward incident as defined under Section 123(c)(2) of the Railways Act, 1989?**
2. **Whether the deceased Ramashish Yadav was a bonafide passenger of Train No. 562 Dn. on 04.06.2002, at the time of the alleged untoward incident?**
3. **Whether the claim application of the applicant is maintainable?**
4. **Whether the applicant/dependents of the deceased are entitled to received compensation, as claimed for?**

The learned Tribunal also noticed that the claimant had produced certain evidences/documents,

which were marked in the following manner:-

1.	Affidavit of Smt. Gangajal Devi	Ext. A-1
2.	Photocopy of Memo	Ext. A-2
3.	Photocopy of FIR with Final Report	Ext. A-3
4.	Photocopy of Inquest Report	Ext. A-4
5.	Photocopy of Postmortem Report	Ext. A-5
6.	Photocopy of Death Certificate	Ext. A-6
7.	Photocopy of Voter Identity Card of Smt. Gangajal Devi	Ext. A-7
8.	Photocopy of Dependency Certificate	Ext. A-8

The learned Claims Tribunal, after hearing the parties, proposed to decide Issue No. 1 as first issue and decided the said issue in following terms:-

“8. The applicant claims that on 04.06.02, her husband Ramashish Yadav, accidentally fell down from train No. 562 passenger at Sadishopur due to heavy rush and died on the spot. According to her, she was traveling along with the deceased and saw the entire incident but failed to stop the train even with the help of the co-passengers. She further adds that when the train stopped at the next station, she rushed to the site of the accident. Interestingly, describing the incident upto this point, she remains silent regarding what happened to her husband after the incident. Due to this strange conduct on the part of the wife, I give very little credence to the version given by the applicant.

9. The memo of ASM/Danapur station dtd. 04.06.02 (time not mentioned) (Ext.A/2), states that as per information received from the train control room, a man has been run over on the up line at Sadishopur station. Here the train has not been identified. FIR (Ext. A/2 reverse) was registered on the basis of the report of the station Master, Danapur (Ext.A/2) at 19.30 hrs. by changing the cause of death promptly to ‘fall from train’. This has been done by tempering the document. The mischief on the part of the applicant is thus established.

10.The Inquest Report (Ext.A/4) is

another forged/fabricated document. As per this inquest was conducted at platform of the up Shadishopur station at 18.20 hrs. of 04.06.02, when FIR itself was registered at 19.30 hrs. Moreover, the cause of the accident (Col 9) has been tempered/re-written here and ticket no. has been added subsequently at Col. No.6.

11. The Final Report (Ext.A/3) was finalized on 21.08.02, more than 2 ½ months after the death of Ramashish Yadav. Since this report has been drawn on the basis of Ext.A/2 and Ext.A/4 I have no reason to accept it.

12. The place of death in the death certificate (Ext.A/6) is also tempered. I, therefore, reject all the above police Reports (Exts. A/2, 3 and 4) and death certificate (Ext.A/6), filed as evidence by the applicant and conclude that she is committing this mischief only to mislead the tribunal, so that undue financial benefit can be received in the form of compensation, from a government department. The malafide is thus, established.

13. In the light of the facts stated above, it is not accepted that the deceased fell from train No. 562 passenger at Sadishopur station on 04.06.02, as claimed. Accordingly, this issue is decided against the applicant.”

Regarding Issue No. 2 i.e. whether the deceased Ramashish Yadav was a bona-fide passenger of Train No. 562 Dn. dated 04-06-2002 at the time of alleged untoward incident recorded its finding as follows:-

“14. The applicant in her original claim application (Item No.07) stated that the II class ticket by which the deceased traveled, was lost in the said incident. Subsequently, she scored out that part and added by hand in ink, two ticket Nos. i.e. 11087 and 11088. The tickets have not been filed by the applicant. She mentions the same ticket Nos. in her affidavit too. However, a close look at

the Inquest Report filed as Ext.A/4, reveals that the document has been tempered by subsequently adding the ticket Nos. at Col. 6. The malafide on the part of the applicant being proved, I am convinced that possession of a ticket is another concocted story, narrated for the sole purpose of proving a particular point. Thus, it is not accepted that the deceased was a bonafide passenger of train No. 562 passenger, as claimed by the applicant.”

Since the Claims Tribunal decided aforesaid two issues against the claimant, the learned Tribunal decided Issue Nos. 3 & 4 too against the claimant and held that the claimant was not entitled to receive any compensation and dismissed the claim application by its order dated 27-11-2012, which has been assailed in the present appeal.

Sri Krishna Mohan Murari, learned counsel for the appellant, assailing the impugned order of the Claims Tribunal, at the very outset, submitted that on perusal of the impugned order, it is evident that the learned Member (Technical) was adamant to reject the claim application and as such, without any rhyme and reason, has rejected the claim application, as if entire documents produced from the side of claimant were forged and fabricated, whereas, documents produced by the claimant were true copies of the documents, which were issued by the



Railway Police, Danapur itself. He further submits that before rejecting the claim on the ground that documents being forged as well as alleged interpolation, the learned Member (Technical) of the Railway Claims Tribunal, Patna was required to get the documents examined by the expert or the Tribunal would have summoned the original documents from the concerned authorities. However, without adverting to get the documents verified, the learned Tribunal in complete irregular and illegal manner has rejected documents as forged, which were produced from the side of the claimant. Learned counsel for the appellant has taken the Court to those documents, which are available on the Lower Court Record. He submits that in **Ext. A-2** in Column No. 3, it was categorically stated that death had occurred due to fall from the train, but without any reason, the learned Tribunal has observed that it was done by tampering. Even learned Tribunal has rejected the final report submitted by the police as well as inquest report on the plea that inquest report was prepared on 04-06-2002 at 18:20 hours, whereas, F.I.R. was lodged, vide **Ext. A-2** on the same date at 19:30 hours. In sum and substance, it has been argued that the learned Claims Tribunal, without any plausible material

doubting the correctness of reports/exhibits, has rejected the claim, as if everything was forged and fabricated. According to learned counsel for the appellant, on perusal of the Lower Court Record, it was established case of the claimant that husband of the claimant was a bona-fide passenger and died in an untoward incident and accordingly, the claimant/appellant is entitled to get compensation amount of Rs. 4,00,000/- (four lacs), as claimed before the Tribunal.

Sri Anil Singh, learned counsel for the respondent/Railway has vehemently opposed the prayer of the appellant. He tried to persuade the Court to believe that in column no. 6 of **Ext. A-4** i.e. inquest report subsequently, ticket number was added. According to learned counsel for the respondent, the learned Tribunal has rightly rejected the claim application filed by the appellant and the order impugned may not be interfered with.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. The Court is surprised to notice that though, learned Tribunal had allowed the claimant to get documents exhibited and marked without any objection being raised by the



respondent/Railway, at the time of passing order, the learned Tribunal has come out with a finding that the claimant had tampered the documents. The Court is of the opinion that once the learned Member (Technical) of the Tribunal had raised suspicion regarding the tampering, proper course for the Tribunal was to get such documents examined through the expert or the learned Tribunal would have summoned original of such documents from the concerned authorities. In any event, without any apparent tampering, the learned Tribunal was not justified to record a finding as if tampering was done. On perusing the finding of the Tribunal on the point of raising suspicion, in view of timing of preparation of inquest report and recording F.I.R., it appears that the learned Tribunal has committed serious error. Immediately after getting information regarding lying a dead-body at the railway track, the police arrived at the place of occurrence and on arrival, first of all inquest report was prepared to show as to under what circumstances and in which position, the dead-body was lying, what was the time of preparation of inquest report, prima facie injury found on the persons of the deceased and recovery of clothes & other articles etc. Those facts



were required to be mentioned in the said report and thereafter, F.I.R. was registered and body was sent for conducting autopsy. The inquest report i.e. **Ext. A-4** was prepared on 04-06-2002 at 18:20 hours and thereafter, U.D. case was registered on 04-06-2002 at 19:30 hours. **Ext. A-5** is the post-mortem report, which shows that at 6:20 P.M. on 04-06-2002, the dead-body was received for post-mortem from Rail Police, Danapur and post-mortem commenced on 05-06-2002 at 7:00 A.M. The police report i.e. **Ext. A-3** categorically states that the deceased was a bona-fide passenger, having railway ticket and his death occurred due to fall from the running train. The police report i.e. **Ext. A-3**, which is on record, is true copy of its original, which has been issued from the Rail Police Station, Danapur on 08-09-2002. On perusal of the same, I do not consider that there is any ground to raise suspicion on the said document. Moreover, once the documents were got exhibited without any objection, at subsequent stage, the learned Tribunal was not justified in ignoring those documents. The claimant, besides bringing on record those documents, had also filed an affidavit in evidence, wherein, detail picture has been depicted to establish that death of husband of the claimant had



occurred due to fall from the running train. Passenger's accidental fall from the running train has been defined as untowards incident under Section 123 (c)(2) of the Railways Act, 1989. Besides final report, inquest report, post-mortem report, death certificate, the claimant had also brought on record a report issued from the office of Circle Officer, Dhanarua to show dependency, which has been marked as **Ext. A-8**. It is pertinent to mention here that the claimant was examined as A.W.8. She was cross-examined, however; while cross-examining, nothing could be extracted to create any doubt on the claimant's case.

In view of the facts and circumstances and on perusal of the exhibits & documents lying on the Lower Court Record, the Court is satisfied that the learned Member (Technical), Railway Claims Tribunal, Patna has not appreciated the evidences in its right perspective and incorrectly rejected the claim case.

Accordingly, the order dated 27-11-2012 passed in Claim Application No. OA 00254 of 2002 by Sri J.D. Goswami, learned Member (Technical) of the Railway Claims Tribunal, Patna Bench, Patna is, hereby, set aside.

In view of the evidences on record, the Court is satisfied that the appellant is entitled to get the claimed

amount i.e. Rs. 4,00,000/- (four lacs).

Accordingly, the respondent/Union of India through the General Manager, Eastern Railway, Kolkata is hereby directed to pay the compensation amount of **Rs. 4,00,000/-** (four lacs) to the appellant with **6%** (six percent) interest from the date of filing of the claim case i.e. 30-09-2002 within a period of six weeks from the date of receipt/production of a copy of this order, failing which, the appellant shall be entitled to get interest at the rate of **12%** (twelve interest) on the compensation amount from the date of filing of the claim case.

The appeal stands allowed.

However, in view of the facts and circumstances, no cost is imposed.

(Rakesh Kumar, J.)

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