

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.138 of 2013

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Manjur Khan, son of Late Sakur Khan, resident of village - Nayamatganj Bazar,
P.O. and P.S. Mahashi, District - East Champaran (Bihar).

.... Applicant-Appellant.

Versus

1. The Union of India, through the General Manager, North Eastern Railway,
Gorakhpur
2. East Central Railway, Hazipur through its General Manager

.... Respondent-Respondent.

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Appearance :

For the Appellant : Mr. Pravin Kumar Sinha, Advocate.

For the Respondents : Mr. Sunil Kumar Ravi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 31-03-2015

Heard learned counsel for the appellant and the
Respondents and also perused the records of the case.

2. This Claimant's appeal has been filed under Section 23
of the Railway Claims Tribunal Act, 1987 against the Judgment and
Order dated 30.11.2012 passed in Claim Application No.OA-000189
of 2002 by the Member (Technical), Railway Claims Tribunal, Patna
Bench, Patna (hereinafter referred to as "the Tribunal"), dismissing
the aforesaid claim application of claimant-appellant.

3. In brief, the case is that Salauddin Khan, the son of the
claimant-appellant, Manjur Khan, purchased Second Class Railway
Ticket at Guwahati Junction for Muzaffarpur and boarded at Train
No.5609 UP Awadh Assam Express. During the course of journey,



Salauddin Khan accidentally fell down from the running train near Umesh Nagar Railway Station due to heavy crowd in the train and he died on the spot. The villagers of the claimant-appellant, who were co-passengers in the train, informed the claimant-appellant about the accident, then he alongwith his relatives went to G.R.P. Khagaria and identified the dead body of his son, Salauddin Khan, and received his dead body after post-mortem examination. The further case of the claimant-appellant is that the second class train ticket as purchased by the deceased on 20.02.2002 at Guwahati Junction for Guwahati to Muzaffarpur was lost during the accident. The claimant-appellant being the father of the deceased, Salauddin Khan, claimed compensation of Rs.4,20,000/- against the Railway.

4. Learned counsel for the claimant-appellant submits that from the evidence available on the record, it is apparent that the deceased, Salauddin Khan, son of the claimant-appellant, died due to falling down from the bogie of the Train No.5609 UP Awadh Assam Express near Umesh Nagar Railway Station in course of journey and AW-2, Md. Ansar, has specifically stated in his evidence that he had come alongwith Salauddin Khan at Guwahati Railway Station and purchased one ordinary second class Express Train Ticket from Guwahati to Muzaffarpur for Salauddin Khan and one platform ticket for himself on 20.02.2002 and after the boarding of Salauddin at the

general bogie of the Train No.5609 UP Awadh Assam Express on 20.02.2002, he returned to his quarter but the learned Tribunal disbelieved the factum of the accident, as narrated in the claim application, and dismissed the claim application of the claimant-appellant.

5. On the other, learned counsel for the Respondents submits that the learned Tribunal has discussed the oral evidence of the witnesses and the documents available on the record in detail and has rightly come to the conclusion that the claimant-appellant failed to prove that the deceased, Salauddin Khan, was passenger of Train No.5609 UP Awadh Assam Express, who met with an untoward accident.

6. In support of the claim application, the claimant-appellant, Manjur Khan, examined himself as AW-1 and also got examined Md. Ansar as AW-2 and filed 9 photocopies of documents

7. From the evidence of AW-1, Manjur Khan, it appears that he is not an eye witness to the occurrence of accident and he has stated in paragraph-5 of his cross examination that at the time of accident, Sahur Khan, Ashfaq and Ashok Kumar, who are his villagers, were present. He has also stated in paragraph-8 of his cross examination that after receiving information of accident he along with two others went to Khagaria where he found the dead body of his son

hanging on the tree covered with a bed-sheet and he cremated the dead body there. Sahur Khan, Ashfaque and Ashok Kumar, who according to the claimant (AW-1) were eye witness to the accident, have not been examined before the Tribunal. While AW-2 has stated in his evidence that he had purchased the ticket of the deceased at Guwahati Railway Station and after boarding at Train No.5609 UP Awadh Assam Express by the deceased, he returned to his quarter but Ext.R/1, the report dated 20.09.2005 of CS(B) Guwahati N.E. Railway, shows that on 20.02.2002, no ticket was sold at Guwahati Junction for Muzaffarpur. The learned Tribunal has considered the oral and documentary evidence, i.e., the inquest report of the deceased (Ext.A/5), F.I.R.-cum-final form dated 22.02.2002 (Ext.A/3) and Ext.R/1 and disbelieved the case of the claimant-appellant about falling of the deceased from the bogie of the Train No.5609 UP Awadh Assam Express, and death in an untoward accident.

8. I find no illegality and infirmity in the impugned Judgment and Order. Accordingly, this Miscellaneous Appeal stands dismissed.

(Rajendra Kumar Mishra, J)

P.S./-

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