

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.575 of 2012

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Najama Begam, W/o Late Md. Saukat Ali R/o Village/Mohalla - Lala Toli
Dumrawn, P.S. Dumarawn, District - Buxar

.... Appellant/s

Versus

The Union of India Through G.M. Eastern Railway, Kolkata.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Amar Nath Mishra
Mr. Anant Kumar No.1

For the Respondent : Mr. Anil Singh

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 24-03-2015

Heard learned counsel for the appellant and learned
counsel for the respondent.

This miscellaneous appeal is filed under Section 23 of
the Railway Claims Tribunal Act against the order date 13.02.2012
passed in Claim Application No.0A 000106 of 2002 passed by the
Railway Claims Tribunal, Patna Bench dismissing the claim of the
appellant/claimant.

The case of the appellant/claimant, in brief, is that
deceased Saukat Ali, husband of the claimant boarded in Train No.
559 Up Patna Sahib Buxar Passanger at Patna Junction Railway
Station for Arah with valid Ticket No.88356. The deceased fell down
accidentally from the train due to heavy rush inside the compartment

at Danapur Railway Station and died on the spot. Thereafter, U.D. Case No. 15 of 2001 was registered regarding the accident at Danpur Railway Station. The claimant claimed for compensation of Rs. 4,00,000/- for the accidental death of her husband due to falling down from the Train No.559, Patna Sahib Buxar Passenger at Patna Junction.

Learned counsel appearing on behalf of the appellant/claimant submits that there is sufficient evidence available on record to show that the deceased fell down from the Patna Sahib Buxar Passenger 559 Up train, but the Railway Claims Tribunal, Patna Bench dismissed the claim application illegally and refused the claim of the appellant.

On the other hand, learned counsel appearing on behalf of the respondent submits that there is no eye witness of the occurrence which would appear from the evidence available on record rather the deceased died due to run over by some unidentified down train.

On perusal of the record, it appears that in support of Claim Case, Claimant Najma Begum examined as AW.1 and her brother-in-law Md. Sarawar Hajam as AW.2. From their evidence, it appears that they are not witness of incident in which deceased Saukat Ali felled down from train and died. AW.1 has stated in her evidence

that Railway Ticket (Ext. A-5) was given to her by Police. Ext. A-3, F.I.R. of U.D. Case No. 15 of 2001 discloses that on the basis of information of the Guard of 559 Up passenger train about lying the dead body on the down track the Station Master, Danapur gave his statement regarding the occurrence. Ext. A-4 is the Inquest Report, which shows that inquest report was prepared as unknown dead body. No recovery of the Railway Ticket has been detailed in the inquest report, Ext.A-4. The Tribunal has discussed the evidence in detail in deciding the issue No.2 whether the deceased was a victim of untoward incident occurred under section 123 (c) (2) of the Railway Act and arrived at conclusion that deceased died as a result of running over by an unidentified train and accordingly, dismissed the claim petition of claimant-appellant.

Under the aforesaid facts and circumstances, I find no infirmity and illegality in the impugned judgment and order. Accordingly, this miscellaneous appeal is dismissed.

(Rajendra Kumar Mishra, J.)

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