

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.316 of 2013

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Shri Ram Nath Sah, son of Late Mansukh Sah, resident of village- VIP Colony, Dalsinghsarai, P.S- Dalsinghsarai, Distt- Samastipur (Bihar)

.... Applicant/Appellant

Versus

Union of India through its General Manager, E.C. Railway, Hajipur

.... Respondent

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Appearance :

For the Appellant/s : Mr. Pravin Kumar Gupta, Adv.

For the Respondent/s : Mr. Sunil Kumar Ravi, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
C.A.V. ORDER

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3 -03-2015

The present appeal under Section 23(1) of the Railway

Claims Tribunal Act, 1987 has been preferred against an order dated 14.02.2013 passed by Sri J.D. Goswami, Member (Technical), Railway Claims Tribunal, Patna Bench (herein after referred to as the “Claims Tribunal”) in Claim Application No.OA 000408 of 2002. By the said order, the claim application, whereby compensation of Rs.4, 50,000/- was claimed in view of death of son of the appellant in train accident, was rejected.

2. From the record, it is evident that an application under Section 16 of the Railway Claims Act, 1987 was preferred in the month of November, 2002 disclosing therein that son of the appellant, namely, Raju Sah, while travelling by train no.401UP (Brauni-Samastipur), fell down from the running train at Satha



Jagat Railway Station due to heavy crowd and jerk of the train, resulting to cut of both legs below his knee by the train. After the accident, he was carried to Dalsinghsarai Government Hospital, from where he was referred to Patna Medical College Hospital. Accident had occurred, as per claim case, on 14.09.2002 and injured died on 15.09.2002 at Patna Medical College Hospital. The appellant in the claim petition disclosed that the deceased was aged about 26 years and he was doing business. Total amount of Rs.4,50,000/- as compensation was claimed. It was disclosed that though the deceased was having valid second class train ticket, which was from Sathajagat to Samastipur Jn., the said ticket was lost in the accident. Along with claim petition, before the Claims Tribunal, in support of his claim, the claimant produced affidavit of the appellant, which was marked as Ext.A-1, affidavit of one Dinesh Rajak as Ext.A-2, affidavit of Sunil Sah as Ext.A-3, copy of fardebayan as Ext.A-4, copy of inquest report as Ext.A-5, copy of Post-Mortem report as Ext.A-6, copy of Post-Mortem Examination Report as Ext.A-7, copy of I.Card of appellant Ram Nath Sah as Ext. A-8, copy of I.Card of Dinesh Rajak as Ext.A-9 and dependency certificate, which was got marked as Ext.A-10.

3. Before the Claims Tribunal, the Respondent/Union of India through the General Manager, E.C. Railway, Hajipur

appeared and filed written statement. It was stated in the written statement that son of the appellant was not a bona fide passenger and death had not occurred due to alleged untoward incident as defined under Section 24A of the Railways Act, 1989. It was pleaded that from the fardbeyan, it is evident that the deceased was an unauthorized ground-nut vendor.

4. The learned Claims Tribunal framed number of issues and after examining the materials on record concluded that the applicant failed to prove that Late Raju Sah was a bona fide passenger of train no.401 UP on 14.09.2002. The learned Claims Tribunal took up two issues together, namely, (i) whether the deceased was victim of the alleged untoward incident as defined under Section 123(c) of the Railway Act, 1989 and (ii) whether the deceased Raju Sah was a bona fide passenger of train no.401 UP on 14.09.2002 at the time of alleged untoward incident. It was decided by the Claims Tribunal against the claimant. Accordingly, claim petition was rejected on 14.02.2013, which has been challenged in the present appeal.

5. Sri Pravin Kumar Gupta, learned counsel for the appellant in support of the case of the appellant has argued that it was a specific case of death of the bonafide passenger in an untoward incident. He submits that the accident was witnessed by



one Dinesh Rajak, who had filed an affidavit giving categorical picture of accident. He further submits that affidavit of Sunil Sah, who was younger brother of deceased Raju Sah also corroborates that before start of travel, the deceased had got a train ticket purchased through his younger brother and in his presence he had boarded the train. Subsequently, he was informed by his father that his brother had fallen from running train and badly injured and, thereafter, he rushed to Government Hospital, Dalsinghsarai and there he remained present with injured brother. The claimant Ram Nath Sah had also filed an affidavit before the Claims Tribunal and described that on 14.09.2002 in the night he was informed by Dinesh Rajak that his elder son had unfortunately fallen down from the train at Sathajagat Railway Station.

6. Sri Gupta, learned counsel for the appellant further submits that besides affidavit on record, copy of fardbeyan, inquest report and other documents were brought on record. However, learned Claims Tribunal has failed to appreciate the evidences and rejected the claim petition in a mechanical manner. According to learned counsel for the appellant, the order of the Claims Tribunal is required to be set aside and the claimant/appellant is entitled to get the claimed amount, as was claimed before the Claims Tribunal.



7. Sri Sunil Kumar Ravi, learned counsel for the Respondent/ Union of India through the General Manager, E. C. Railway, Hajipur has vehemently opposed the prayer of the appellant. He submits that facts disclosed in the fardbeyan i.e. Ext.A-4 clarifies that the deceased was a ground-nut vendor. He submits that no cogent or plausible evidence has been brought on record to show that the deceased was a bona fide passenger. He further submits that of course, the fardbeyan was got recorded on 16.09.2002 at about 10.30 A.M. in Patna Medical College Hospital regarding the accident, which had occurred on 14.09.2002 after the death of injured, it was admitted in the fardbeyan itself that the deceased was a ground-nut vendor and he was selling ground-nut by way of roaming here and there. He, by way of referring to inquest report i.e. Ext. A-5, submits that the inquest report was prepared at 11.00 A.M. on 16.09.2002 in Patna Medical College Hospital. The dead body was found on the bed. He has reiterated that while claiming compensation in a rail accident, it is mandatorily required on the part of the claimant to firstly establish that (i) the deceased was a bona fide passenger and (ii) the accident had occurred in an untoward incident. In view of facts disclosed on the basis of material on record, it has been argued that neither any railway ticket was recovered from the



person of deceased nor the matter was reported either to the Station Master of Satha Jagat or Samastipur Railway Station. Had it been a case of such untoward incident, the matter would have been reported to the railway authority. He further submits that of course, so called copies of fardbeyan and inquest report have been brought on record by the claimant, before the Claims Tribunal, the claimant has not brought on record the police report. By way of referring to fardbeyan and inquest report, he submits that there is contradiction of fact disclosed in the fardbeyan and affidavit filed on behalf of the claimant. Accordingly, it has been argued that the Claims Tribunal has rightly rejected the claim petition.

8. Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of fardbeyan i.e. Ext.A-4, it is evident that the informant (appellant and father of the deceased) had categorically stated that his deceased son was a ground-nut vendor and he was selling ground-nut. No plausible material has been brought on record to establish that the deceased was having valid railway ticket or he was a bona fide passenger. In the case, there is nothing to indicate as to whether any report was made to the Station Master. It is case of claimant that his son due to injuries died on 15.09.2002 in the night at Patna Medical College Hospital. After several hours from

the death, the fardbeyan of the appellant was got recorded by the police officer of Pirbahore Police Station at Patna Medical College Hospital. In absence of any such cogent material, the learned Claims Tribunal has rightly rejected the claim petition. On going through the materials available on record and the order of the Claims Tribunal, the Court is satisfied that it is not a case of interference.

9. The appeal stands dismissed.

(Rakesh Kumar, J)

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