

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.399 of 2013

=====

Lalti Devi Wife Of Late Jaleshwar Prasad Resident Of Village- Beladih,
P.S.- Belaganj, District Gaya

.... Appellant/s

Versus

The Union Of India, Through The General Manager, East Central Railway,
Hajipur (Bihar)

.... Respondent/s

=====

Appearance :

For the Appellant/s : Sri Anand Kumar, Advocate

For the Respondent/s : Sri Sunil Kumar Ravi, Railway Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
CAV ORDER

6 09-04-2015

The present appeal under Section 23 of the Railway Claims Tribunal Act, 1987 has been preferred against the judgment and order dated 21.3.2013 passed by Railway Claims Tribunal, Patna Bench, Patna (hereinafter referred to as the “Claims Tribunal”). By the said judgment and order the learned Claims Tribunal has rejected the claim application i.e. Claim Application No. OA00010 of 2003.

Short fact of the case is that in the month of January, 2003 an application under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 125 of the Railways Act, 1989 was filed on behalf of the claimant / appellant claiming compensation of Rs. 4,00,000/- on the ground that her husband, who was posted at Aurangabad, while coming back to his native place i.e.



Belaganj on 5.12.2002 had fallen from Gaya -Patna Passenger train at Belaganj station. Since he was seriously injured he was hospitalized at Belaganj Sadar hospital and on the next day i.e. on 6.12.2002, he died in hospital. After his death fardebayan of one Lalan Prasad was got recorded and as such, a case was registered. After death autopsy was done on the dead body of the deceased. Before that inquest report was also prepared, whereafter, a claim application was filed before the Claims Tribunal claiming compensation of Rs. 4,00,000/- as indicated hereinabove. However, the learned Claims Tribunal has rejected the same by its judgment and order dated 21.3.2013 which has been assailed in the present appeal by the claimant /appellant.

Learned counsel for the appellant has primarily argued that once before the Claims Tribunal all admissible documents were brought on record, the learned Claims Tribunal was not justified in over-looking those documents considering, as if, those documents were not genuine. He submits that it was a clear cut case of death due to fall from running train and since deceased was a bona fide passenger, compensation amount as claimed was required to be allowed by the Claims Tribunal. However, the learned Claims Tribunal in an irregular and illegal manner has rejected the claim case.

Sri Sunil Kumar Ravi, learned counsel for the respondent / Railway has opposed the prayer of the appellant. He submits that it is a peculiar case in which fardbeyan of a person was recorded, who had not at all disclosed as to how and from whom he got an information regarding falling of the husband of the claimant from the running train. He has further argued that had such an accident taken place at Belaganj Railway Station, the Station Master would have issued a memo, but in the present case since no occurrence had taken place at the railway station -Belaganj, the Station Master had issued no memo, nor the Railway authorities were informed regarding such accident. He further submits that before the Claims Tribunal from the claimant's side only one witness was examined who was non- else but the claimant i.e. wife of the deceased. According to Sri Ravi it is admitted fact that the claimant was not accompanying the deceased during journey nor she had witnessed the accident. However, in the affidavit which was filed duly sworn by the claimant the entire picture was depicted as if the claimant herself had witnessed the accident. He further submits that informant, of-course was also not a witness, has not been examined before the Claims Tribunal. Learned counsel for the Railway has also argued that neither in the inquest report there was any mentioning of

recovery of valid railway ticket nor before the Claims Tribunal ticket was produced from the side of the claimant. According to the learned counsel for the Railway the learned Claims Tribunal has rightly rejected the claim application.

On perusal of the materials available on record it is evident that save and except the affidavit of the claimant, no other plausible evidence was brought on record to suggest as to how accident had taken place and who had seen the occurrence. Of course, before the Claims Tribunal certain documents were brought on record, but fact remains that affidavit of only claimant / widow of the deceased has been brought on record. Admittedly, the claimant was not accompanying the deceased nor she was witness to the occurrence. It is difficult to perceive as to under what circumstances, without any direct material on record, the claimant had depicted the story showing fall of the deceased from Gaya -Patna Passenger train at Belaganj Station.

On perusal of the order of the Claims Tribunal it is evident that the learned Claims Tribunal had framed the following 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, Jaleshwar Prasad was a bona fide passenger of Gaya -Patna passenger train on 05.12.2002 , 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 receive compensation, as claimed for?

Besides this, the Claims Tribunal has noticed that from the claimant's side following documents were brought on record i.e.:-

1.	Affidavit of Lalti Devi	Ext. A-1
2.	Copy of fardbayan	Ext. A-2
3.	Copy of FIR	Ext. A-3
4.	Copy of Final Report	Ext. A-4
5.	Copy of Inquest Report	Ext. A-5
6.	Copy of PM Report	Ext. A-6
7.	Copy of Death Certificate	Ext. A-7
8.	Copy of I. Card of Lalti Devi	Ext. A-8
9.	Copy of Dependency certificate	Ext. A-9

I have also perused the record. In the record save and except the affidavit of the claimant there is no other affidavit or statement of any witness to suggest as to how accident had taken place.

In view of the facts and circumstances, the court is of the opinion that the learned Claims Tribunal has rightly not entertained the claim petition and rejected the claim case.

In view of the facts and circumstances, I do not find any ground to interfere with the order of the Claims Tribunal.

The appeal stands rejected.

(Rakesh Kumar, J)

Praful/-

U			
---	--	--	--