

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.467 of 2013

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Munni Devi, wife of late Anil Kumar, resident of Village-Mahuri Tola, P.S.
Shekhpura, District Shekhpura

.... Appellant/s

Versus

The Union of India through the General Manager, East Central Railway, Hajipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Amar Nath Miushra,
Mr. Anant Kumar I
Mr. Sahjanand Sharma, Advocates.
For the Respondent/s : Mr. Sunil Kumar Ravi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-09-2015

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

2. The claimant is the appellant who is wife of Anil Kumar.
Anil Kumar was a passenger of train no.717 Up Kiul-Gaya
passenger traveling from Wajirganj to Gaya. He met with an
accident at Manpur railway station received multiple injuries.
From there he was brought to Gaya police station where he was
received by one constable of GRP, namely, Vijoy Prasad who
brought him to the Railway Hospital, Gaya provided the first
aid, later on shifted to ANMC, Hospital, Gaya for better
treatment. He remained there for treatment for two days and
thereafter he died.

3. The claimant has filed the appeal against the order



dated 4.4.2013 passed in O.A. No.00046 of 2003 by the Railways Claim Tribunal, Patna by which the Tribunal has rejected the claim application disbelieving the documents produced by the appellant, refused to accept that the victim was a bonafide passenger, held documents produced are manufactured, arrived to a conclusion that it was a case of run over falls outside the purview of definition of an untoward incident as provided under Section 123 of the Railways Act as injuries sustained would come in the category self inflicted injuries on account of his negligence/willful act as provided in section 124A(b) of the said Act.

4. Short fact of this case is, her husband, late Anil Kumar was travelling from Wajirganj to Gaya railway station by Train No. 717 Up Kiul- Gaya passenger, with 2nd class ticket. He accidentally fell down from the said train near Manpur railway station, received multiple injuries. The victim was brought by Goods Train to Railway Hospital, Gaya, referred to ANMCH, Gaya where he die in course of treatment. Accordingly claimed Rs.4,00,000/- as compensation for death of her husband on account of untoward incident.

5. Railway filed written statement disputed the claim of the appellant taking plea that victim must have got down

from the train, with a view to catch another train in that transaction he met with an accident.

6. The appellant has altogether exhibited the following documents:

Exhibit A/1 – Affidavit of Munni Devi

Exhibit A/2 – Copy of fardbeyan

Exhibit A/3 – Copy of FIR

Exhibit A/4 – Copy of final report

Exhibit A/5 Copy of Inquest report

Exhibit A/6- Copy of letter given by doctor

Exhibit A/7- Copy of death certificate

Exhibit A/8- Copy of dependency certificate

Exhibit A/9- Copy of I. Card of Munni Devi

7. It appears that an amendment application was filed to make necessary clerical correction as the date of accident was shown as 8.2.2002 and 10.2.2002 which was made as 8.8.2002 and 10.8.2002 which was not challenged before any court so amendment will relate to the date of filing original application.

8. In this case post mortem report has not been brought on record. Fardbeyan is the statement of Vijoy Prasad constable of G.R.P. has stated that on 10.8.2002 on the instruction of his superior he received the victim brought him to Railway

Hospital, Gaya, later on shifted to ANMCH, Emergency Ward, Gaya during the treatment he died. On the basis of fardbeyan of Vijoy Prasad a case was registered as U.D. Case No.33 of 2002.

9. The police investigated the case submitted the final form mentioning therein that on 10.8.2002 at 7.45 A.M. on instruction of Dy. Superintendent of Police he received an information that one passenger of train no.717 Up who had fallen down and was seriously injured was treated at Gaya Railway Hospital and shifted to ANMC, Gaya and during the treatment he died. It also appears from the fardbeyan that after his death post mortem was conducted. Police prepared the inquest report as Exhibit A/5 on 10.8.2002, at col. No.8 it has been stated, he was run over, died during the treatment but at another place it has been recorded that the victim was coming from train no. 717 Up fell down from the said train, received grievous injury, died during treatment.

10. Learned counsel for the appellant submits that it is full proof case but the Tribunal has illegally declared all the documents produced before him to be manufactured, on surmises and conjecturer he rejected the claim application. He has further submitted that there is no dispute that the victim



received injury at Manpur railway station who was brought to Gaya by goods train and from there he was shifted to railway Hospital for treatment where Divisional Medical Officer vide Exhibit A/6 referred him to ANMCH, Gaya for treatment. So no doubt he was a bonafide passenger received injury as he fell down from the train comes under the provisions of section 123 read with Section 124(A) of the Railway Act.

11. Learned counsel for the Railway has vehemently opposed the argument of learned counsel for the appellant and submitted that it was a case of run over. Had there been case of fall there was no occasion for the police to make entry in the inquest report of the deceased having received injury on account of run over. So much so the appellant has not produced the post mortem report which itself creates grave doubt on the claim made by the appellant.

12. Having considered the rival contentions of the parties, the Tribunal while exercising the jurisdiction under the Railway Act is not to act as a criminal court applying standard of proof beyond reasonable doubt. While deciding the merit of the case it was required to apply the proof on preponderance examine the materials available on record, record a finding on fair consideration not be based on minute



and microscopic examination of materials available, and record a finding not on the personalized view. As nowhere the Railway has claimed that the documents produced by the claimants was forged and fabricated but the Tribunal as its own accord recorded such finding. It has been held by the In the case of Union of India V. Prabhakaran Vijaya Kumar and others, reported in 2008(4) PLJR 40 (SC) the Hon'ble Supreme Court has held that while interpreting the beneficial piece of legislation it must be liberal construed, not strict and not literal keeping in mind the intention of legislature.

13. Here sufficient materials are available such as the statement of the police constable who has given details of fact. So much so the Doctor has referred him to Medical College, Gaya, there in course of treatment he died which is apparent from the inquest report. These are materials which sufficiently proves the case of the appellant, in such view of the matter manner this Court finds that the order of the Tribunal is not sustainable. Accordingly the same is set aside and the appellant is entitled for compensation. The appellant is directed to submit the mandate within three weeks from the date of receipt/production of a copy of this order and the appellant will be entitled to compensation of Rs.4,00,000/- along with interest

at the rate of 6% from the date of filing of the case.

14. Accordingly this appeal is allowed.

(Shivaji Pandey, J)

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