

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.598 of 2012

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Gayatri Devi, W/o – Late Lakhan Yadav, resident of village – Khushrupur,
P.S. – Khushrupur, District – Patna (Bihar) ---- Appellant in Tribunal.

.... Appellant

Versus

The Union of India, the General Manager, Eastern Railway Kolkata -----
Respondent in Tribunal .

.... Respondent.

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Appearance :

For the Appellant : Mr. Amar Nath Mishra, Advocate

Mr. Anant Kumar-1, Advocate

For the Respondent : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 12-01-2015

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

2. This is an Appeal preferred against denial of
the claim by Member (Judicial) Shri J.D. Goswami, Railway
Claim Tribunal, Patna Bench, on 1st June, 2012 in connection
with Claim Application No. OA 000105/2002, in the Claim
preferred by the claimant widow of deceased Lakhan Yadav who
was traveling from Khushrupur to Patna by Kiul Danapur
passenger Train with a valid ticket, but due to falling down he
died on 22nd February, 2001, body of the deceased could be
identified only on the next day when his brother Baikunth Yadav
on getting some vivid information and finding his brother missing
contacted the authorities concerned. One U.D. Case had also
been lodged, wherein also it is stated that death was caused due
to fall from the Train, inquest report was prepared at about 17
hours on 22nd February 2001 indicates that from the injuries

blood was oozing.

3. From the above, it is evident that accident might have been taken place soon before, U.D. Case appears instituted roughly at 14.45 hours. The claim has been denied mainly on the ground of some variations of time, as is evident from U.D. Case, inquest report and statement of witness. On inquest report Harun Paswan who is also on the point of purchasing ticket by the deceased at Khushrupur Railway Station just ahead him and stating about the occurrence in the evening.

4. It is seen in most of the cases that even when in the eye of law there is no written statement by the Railway, though, permitted to contest the claim, whereas in face of cryptic written statements, taking into consideration the provisions as contemplated under Order VIII Rule 3, 4, 5 and 10 of the Code of Civil Procedure, it ought to have been considered that there is no written statement and such inquiries from the Claim Tribunal must proceed as of *ex parte*.

5. In the instant case, the documents produced by way of First Information Report of U.D. Case, Inquest report and final report etc., there is no doubt that the deceased died of a Railway accident.

6. True it is, no Railway ticket was found but since he was resident of Khushrupur, died near Patna at the Railway track in the accident. It was for the Railway to explain his death and the manner, but there is absolutely nothing in the



pleading which has stated is cryptic under law non-existing. On the contrary widow of the deceased i.e. claimant has specifically stated that he was going to Patna in connection with his livelihood. His brother Baikunth Yadav also said almost same thing and co-passenger Harun Paswan who has not only appeared as a witness in the inquest report but, as stated, come to say purchasing of ticket by the deceased in his presence. That apart, if the deceased boarded in a Train at Khushrupur Railway Station and traveled up to Rajendra Nagar Railway Station, Patna, and non-recovery of Railway ticket from his person makes no difference in view of decision of this Court in a case ***Smt. Kaushalya Devi versus Union of India (DB) reported in 2008 PLJR (3) 711*** followed in several decisions.

7. Thus, finding of the Claim Tribunal is not sustainable, consequently impugned order is set aside. This appeal is hereby allowed.

8. Railway authority is directed to pay a sum of Rs. 4,00,000/- (Rupees four lacs only) with interest @ 6% from the date of application till actual payment and appellant is directed to furnish the due mandate relating to Bank within a month, failing which she may be deprived of the interest for the delayed period, if any.

Rajeev/-

(Akhilesh Chandra, J.)

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