

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.164 of 2014

=====

1. Union Of India The General Manager, East Central Railway, Hajipur
2. Union Of India The General Manager, East Central Railway, Hajipur

.... Appellant/s

Versus

1. Bindhyachal Devi R/O Village Kurmipur Tola Chaua Chattam, P.S.
Hussainabad, District Palamu
2. Bindhyachal Devi R/O Village Kurmipur Tola Chaua Chattam, P.S.
Hussainabad, District Palamu

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Naresh Dikshit
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 01-12-2015 Heard counsel for the appellants and the respondents.

In the present case, appellants are challenging the order dated 11th
September 2013 passed in Claim Application No. OA 00144 of
2003 by the Railway Claims Tribunal Patna Bench.

Short facts of the case is that on 01st December 2002
the deceased was going from Sone Nagar by 742 Dn.
(Mughalsarai-Gaya Passenger Train) to Chiraila. When the train
was nearing Chiraila Potha Halt, the deceased accidentally fell
down from the running train due to heavy rush, pull and push as a
result of which he died.

Counsel for the appellants submits that the question
of deceased being a bona fide passenger itself falls on the ground
that no ticket was issued from Sone Nagar to Chiraila in between
28th November to 5th December 2002 whereas counsel for the
respondent submits that mere pleading is not sufficient to

substantiate the stand. They produced a certificate in corroboration of aforesaid fact but without bringing that person for cross-examination. It is a failure on the part of Railways of not bringing the document on record in accordance with law, as such, the order of the Tribunal cannot be sustained.

Having considered the rival contentions of the parties, this Court is of the view that a person can be bona fide passenger provided ticket is issued in his favour. The Railway administration has issued the certificate showing that no ticket was issued during the aforesaid period i.e. 28th November 2002 to 5th December 2002 between the two stations and, as such, question of purchase of ticket by the victim on the fateful day does not arise.

In such view of the matter, the order impugned is set aside and the matter is remanded back to the tribunal to decide it afresh within 4 months from the date of receipt/production of copy of this order. The parties are at liberty to bring additional evidence in support of his case in accordance with law. Office is directed to remit back the lower court records to the court below forthwith.

With this observation/direction, this petition is disposed of

Jay/-

U			
---	--	--	--

(Shivaji Pandey, J)