

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No. 85 of 2011

IN

Claim Case No. 000112 of 1999

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Simla Devi, Wife of Late Yogendra Mukhiya @ Yoganand Mukhiya, Resident of
Village-Parwa, P.S.-Murliganj, District-Madhepura.

.... Appellant/s

Versus

Union of India, through the General Manger, N.E. Railway, Gorakhpur, Now E.C.
Railway, Hajipur.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 13-01-2015

Heard the parties.

2. This is an appeal preferred against the Order dated 27th October, 2010 passed by Shri Santosh Kumar Sinha, the Hon'ble Member (Judicial), Railway Claims Tribunal, Patna Bench, in Claim Application No. OA 000112 of 1999, refusing the claim preferred by the appellant seeking compensation against death of her husband, namely, Yogendra Mukhia @ Yoga Nand Mukhiya, who died on falling from Train No. 5441 UP (Janki Express) on 2nd September, 1998.



3. This is undisputed that the Claim Tribunal Below has decided all the relevant issues in favour of the claimant-appellant, but refused to accept the claim only on the ground that deceased no longer remained a bona fide passenger when the tickets of his two brothers accompanying him were returned.

4. Further for limited purpose to examine the aforesaid point it is relevant to state that, as per materials available on the record, the deceased alongwith his two brothers after purchasing tickets boarded in the train but due to rush could not go inside at the safe place and ultimately he fell down and his both legs were chopped. No medical assistance was provided to him timely; consequently, he lost his life. His two brothers had to leave the idea to go ahead and got their tickets returned. Such return of tickets of two co-passengers in spite of being full brothers of the deceased cannot go against the claim preferred by the claimant-appellant. The ticket of the deceased is with the record.

5. It is further relevant to mention that the Railway (respondent) in the written statement admits everything has come out with the case that deceased while making an attempt to board in a running train lost his life, but there is nothing to

support such assertion. Not even single evidence, oral or documentary, has been produced.

6. Taking into consideration the facts and circumstances stated above, there appears no valid reason to sustain the order impugned. Accordingly, the Order dated 27th October, 2010 is set-aside and the appeal is hereby allowed. The Railway (respondent) is directed to pay a sum of Rs. 4,00,000/- to the appellant within a period of 2 (two) months with an interest @ 6% per annum right from the date of filing of claim application till the date of actual payment only after filing of bank's mandate by the appellant which he is directed to do within a month from today.

(Akhilesh Chandra, J)

Praveen-II/-

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