

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.415 of 2013

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Sunita, Devi W/o Late Munga Thakur, resident of village-Diwan Mohalla
Hamampur, P.S- Khazekala, District- Patna (Bihar).

.... 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 : M/s A.N. Mishra and Anant Kumar no. 1, Adv.

For the Respondent/s : Mr. Sunil Kr. Ravi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-08-2015

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

In this case, the wife of deceased, Munga Thakur is the
appellant, was the claimant before the Claims Tribunal. The case was
registered as Claim Application No. OA 00289/2003 where the
demand was made of Rs. 4,00,000/- (four lakhs) as compensation.

As per the case of the appellant, her husband was
travelling on Train No. 501 UP Kiul-Danapur Passenger from
Bakhtiyarpur to Gulzarbagh. The accident had taken place on account
of fall from the running train at Gulzarbagh Railway station. The body
of the victim was recovered from UP Main Line at platform No. 3 in
front of GRP office Gulzarbagh. The accident has taken place on
12/13.07.2003 at mid- night but no one had seen the accident. The

case was registered as Patna Sahib PP UD Case No. 16/2003 which was based upon the memo given by the Station Master on 13th July 2003. The claimant, in support of the case, filed altogether 9 documents which were marked as exhibits A/1 to A/9, are as follows:-

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| 1. | Affidavit of Smt. Sunita Devi | Ext. A-1 |
| 2. | Photocopy of Memo | Ext. A-2 |
| 3. | Photocopy of FIR | Ext. A-3 |
| 4. | Photocopy of Final Report | Ext. A-4 |
| 5. | Photocopy of Inquest Report | Ext. A-5 |
| 6. | Photocopy of Post Mortem Report | Ext. A-6 |
| 7. | Photocopy of Dependency Certificate | Ext. A-7 |
| 8. | Photocopy of Voter I.D. of Sunita Devi | Ext. A-8 |
| 9. | Photocopy of Voter I.D. of Munga Thakur | Ext. A-9 |

In support of the claim, the claimant has examined herself as A.W. 1 but it appears that she was not cross-examined as it is apparent from the fact that an application was filed by the Railway administration to allow the counsel to cross-examine the witness.

The document Ext.A/2 is the memo given by the Station Master where it has been mentioned that it was reported by Station Master on duty Gulzarbagh, one unknown person aged about 25 years, run over and killed from a train, in UP Main Line, in front of GRP(OP) office Gulzarbagh. On that basis, the First Information Report was instituted where in column 2, the name of the victim has



been mentioned as Munga Thakur son of Naresh Thakur. The cause of death has been shown to have been killed on account of hit by train. The final report was submitted by the Police where it has been mentioned the accident/death has taken place on account of fall from any train. This document does not disclose, by which train, the victim had received injury, so much so that the inquest report, Ext. A/5 shows that the inquest was done on 13th July 2003 at 6 O'clock and the dead body of the victim was found at platform no. 3 in UP Main Line and also a description was given, in what manner, the dead body was found lying in the railway track.

The Railway has filed two documents, namely, Ext.R/01 dated 13th July 2003 which shows the report of Station Master where it has been mentioned that dead body of an unknown person was found in UP Main Line. Ext. R/02 is the information provided by the Railway administration to the victim side. The information was sought from the railway administration about time and platform number, Train no. 501 UP crossed. The information was supplied stating that Train No. 501 UP on 13th July 2003 arrived at Gulzarbagh at 7.08 hour, departed at 7.10 hour in Loop Line i.e. platform no. 2. Ext. R/02 creates a serious doubt about the story made by the appellant that the victim was travelling in Train No. 501 UP and he died on account of fall from the train in mid-night on



12/13.07.2003. The claim is completely cock and bull story, the reason is that the body of the deceased was found lying in platform no. 3 UP Main Line track whereas Train no. 501 on which the victim was purportedly travelling, arrived at the platform no. 2 at 7.00 A.M. whereas F.I.R. was registered at 6.00 A.M. i.e. one hour earlier from the time of passing the train so the story of a bona fide passenger of Train no. 501 is completely falls to the ground. The basic structure of the case of the appellant showing a bona fide passenger of Train No. 501 falls flat, so much so, the report of the Station Master shows that the victim was killed due to run over without giving any train number, so much so that the train crossed the station through platform no. 2 strongly suggests that the appellant was not a bona fide passenger of Train no. 501 UP, was travelling from Bakhtiyarpur to Gulzarbagh.

In such view of the matter, this Court does not find any reason to interfere with the order passed by the Claims Tribunal.

Accordingly, this appeal is dismissed.

(Shivaji Pandey, J)

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