

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.437 of 2013

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1. Pannalal Verma S/O Late Gajo Lal Resident Of Village/ Mohalla- Nala Road,
Langar Toli Road, P.S.- Kadamkuan, District- Patna

.... Appellant/s

Versus

1. The Union of India, through the General Manager East Central Railway, Hajipur
(Bihar)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. A.N. Mishra,
Mr. Anant Kumar I, Advocate.

For the Respondent/s : Mr. Sunil Kumar Ravi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-08-2015

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

2. In this appeal the appellant is challenging the order dated
11.4.2013 passed by the Railways Claim Tribunal, Patna in
O.A. No.00290 of 2003 by which the Tribunal has rejected the
claim application of the appellant.

3. As per case of the claimant that his wife victim, namely,
Sakuntala Devi, boarded in Train No.559 Up Fatuha -Buxar
passenger train on 9.3.2003 at Patna Sahib station. As there was
heavy rush the lady had fallen down from the running train at
Rajendra Nagar over bridge. She was a bonafide passenger but
ticket was not available, he claimed compensation from the

railway on the ground that it was a case of an untoward incident of bonafide passenger, entitled to compensation.

5. The Railway has disputed the claim of the appellant by filing the written statement stating therein that allegations are false and fabricated. No such accident falling from the said train as alleged took place. No any information has been given to the Railway authority by any co-passenger, local authority or driver/guard of the said train. The applicant is not entitled to compensation.

6. The Tribunal has framed four issues which are as follows:

1. Whether the deceased was a victim of the alleged untoward incident, as defined under Section 124A of the Railways Act, 1989?

2. Whether the deceased Sakuntala Devi was a bonafide passenger of Train No. 559 passenger at the time of the alleged untoward incident?

3. Whether the claim application of the applicant is maintainable?

4. Whether the applicant/dependents of the deceased are entitled to receive compensation?

7. The claimant in support her case has exhibited following

documents:



Affidavit of Shri Pannalal Verma	- Exhibit A/1
Photocopy of memo	- Exhibit A/2
Photocopy of application dt.10.3.03	-Exhibit A/3
Photocopy of FIR	- Exhibit A/4
Photocopy of Final Report	- Exhibit A/5
Photocopy of Inquest Report	- Exhibit A/6
Photocopy of postmortem report	- Exhibit A/7
Photocopy of receipt of dead body	- Exhibit A/8
Photocopy of Death certificate	- Exhibit A/9
Dependency certificate	- Exhibit A/10
Photocopy of Voter Identity Card of Pannalal Verma	Exhibit A/11

8. Learned counsel for the appellant submits that Tribunal has misdirected himself in rejecting all the documents that has been filed by the appellant and wrongly refused to rely upon them treating the documents to be fabricated. He has further submitted that when a person has boarded on the train he or she will be treated to be a bonafide passenger having valid ticket. He has placed reliance on the judgment in the case of Union of India V. Prabhakaran Vijaya Kumar and others , reported in 2008(4) PLJR 40(SC) and has also submitted that it is a case of

accidental death but she not caught by a running train but accidental fall from the running train on account of heavy rush.

9. Learned counsel for the Railway has contradicted the argument of learned counsel for the appellant and submits that as per Exhibit R/2 it shows that appellant was not a bonafide passenger having fallen down from running train rather the documents itself shows that she came under the trap of running train and died. He further submits that document filed by Railway Exhibit R/1 itself shows that no such accident of falling down from running train has been recorded in the station diary and whenever such accident takes place the same is recorded therein. These are the circumstances which go against the appellant and makes him disentitle for compensation.

10. Having considered the rival contentions of the parties, from the record it appears that the claimant and his wife was residing in Langartoli. The claimant has not given any reason why a person residing near Rajendranagar will go to Patna City and board on the train. One can understand that if a person goes for some purpose to Patna City will use train service, but it does not stand to reason, the person residing in Langer Toli will take train ride from there. The complaint petition does not show that she had any such purpose to be at Patna City. Other factor is

that Memo of Appeal Exhibit R/2 itself shows, she came under running train and led to her death. Exhibit R/1 corroborates the statement that no such accident of fall has taken place in the Rajendranagar station from the running train.

11. This Court is of the view that these are the factors which goes against the appellant. It appears that while crossing the railway line under Rajendranagar over bridge she was caught under train no.559 Up and on that account she died.

12. In such view of the matter, this Court does not find any merit in this appeal. Accordingly this appeal is dismissed.

(Shivaji Pandey, J)

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