

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.439 of 2013

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Sita Devi Wife of Late Nathun Prasad, resident of village- Makhlotganj, Mahavir
Asthan, P.S.- Kotwali, District- Gaya.

.... Appellant

Versus

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

.... Respondent

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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 Kumar Ravi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 31-08-2015

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

In this case, the appellant is challenging the
award dated 11th April 2013 passed by Railway Claims
Tribunal, Patna in Claim Case No. 196 of 2003 in which
deceased Nathun Prasad, husband of the claimant died due
to fall from the running train on account of crowd in
compartment and jostling of the passenger for space.

The short facts of this case is that deceased
Nathun Prasad, was travelling in Gaya-Dehri Passenger for
Kastha after purchasing the due ticket and on account of
crowd in the compartment, he had fallen outside and met
with an accident.

A claim application has been filed, making out

a case of bona fide passenger, led to untoward accident, entitled to the compensation amount as per the Railways Act. In support of the contention, the appellant has exhibited altogether 10 documents which are as follows:-

1	Affidavit of Sita Devi	Ext.A/1
2	Copy of Memo	Ext.A/2
3	Copy of FIR	Ext.A/3
4	Copy of Final Report	Ext.A/4
5	Copy of Inquest Report	Ext.A/5
6	Copy of Post Mortem Report	Ext.A/6
7	Copy of Newspaper cutting	Ext.A/7
8	Copy of Dependency certificate	Ext.A/8
9	Copy of I. Card of Sita Devi	Ext.A/9
10	Copy of I. Card of Nathun Prasad	Ext.A/10

The Railway has filed written statement, in paragraph 3, the Railway has stated that the victim has not died on account of over crowded in the train, rather he died on account of the fact that he was travelling keeping his body outside and on that account, he met with an accident, so much so that he has also taken plea that Ticket no. 64405 which has been shown to have been purchased on 28th April 2003, is incorrect rather it was purchased on 29th April 2003 and the same was inserted with the connivance of the Police. In support of his contention, he has placed reliance on the Certificate dated 9th September 2003 which has been issued by Chief Booking Superintendent, East Central Railway, Gaya Junction.

The Claims Tribunal basically placing reliance

on the Certificate, rejected the claim of the applicant and found that the husband of the claimant was not a bona fide passenger and as such, even death of the victim arising out the use of train will not make his entitlement to compensation.

The inquest report is Ext. A/5 which was prepared by the Police on 29th April 2003 where it has been mentioned that Ticket no. 64405 dated 28th April 2003 was recovered from the body of the victim and has also given description of the nature of the injury sustained by the deceased.

The appellant has taken plea, but none appeared for the Railway to prove the Certificate issued by the Chief Booking Superintendent, East Central Railway, Gaya Junction. The counsel for the appellants submits that unless some one comes forward and prove the R/1, and subjected to cross-examination. Mere filing of Certificate cannot be a piece of an evidence, it can only be looked into when some one proves the certificate. Here the inquest report shows that ticket was issued on 28th April 2003, but R/1 states, the ticket was issued on the next date, on that basis, Railway has taken plea that ticket was inserted at the time of preparation of inquest report.

If a ticket is issued on the next date of the

journey, it creates a grave doubt with regard to the authenticity of the story of appellant, so much so that this certificate without having been proved by proper persons, cannot be a basis for reliance for the purposes of rejection of the claim of the appellants.

In such view of the matter, the award dated 11th April 2013 is set aside and the matter is remanded back to the Tribunal to decide the case afresh and the parties will have liberty to produce the relevant materials for the purposes of proving their respective cases.

With the above observations/directions, this appeal is allowed to the aforesaid extent.

(Shivaji Pandey, J)

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