

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Appeal No.438 of 2013**

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Rubi Devi Wife of Late Girija Sharma, resident of village - Arai, P.S.- Daudnagar,  
District- Aurangabad. .... Appellant/s

Versus

The Union of India, through the General Manager, Eastern Railway Kolkata.  
.... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Amar Nath Jha, Anant Kumar no. 1 and  
Satyanand Sharma, Advs.

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

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 03-09-2015**

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

In this case, the appellant is challenging the  
order dated 25<sup>th</sup> April 2013 passed in Claim Application No. OA  
00255/2002.

The short facts of this case is that on 4/7/2002,  
her husband Late Girija Sharma boarded Train No. 3347 Palamu  
Express at A.N. Road Railway Station with a valid ticket but  
there was an accidental death on account of fall from the train  
near the originating station itself and died on the spot. It has  
been stated, there was heavy rush in general compartment, her  
husband was near the gate. The passengers were jostling for  
space, in that process, he was pushed out, on that account  
received serious injuries and died at spot itself.

A claim application was filed, the claimant in  
support of her claim examined altogether six documents which

are as follows:-

|   |                        |         |
|---|------------------------|---------|
| 1 | Affidavit of Rubi 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 P.M. Report    | Ext.A/6 |

The Railway has filed its written statement where the denial has been made of falling from the running train.

In the present case, the claimant has not come forward to depose her case.

Let us examine the documents that have been filed by appellant. Ext. A/2 is the Memo issued on 5/7/2002 where it has been mentioned that one unknown person aged about 30 years, has been run over at AVBR Advanced Starter in between KM No. 536/28-536/26, message given by on duty S.M., Shri Arbind Kumar and requested to dispose of the dead body. On that basis, First Information Report was lodged where name of the informant has been registered as Sanjeev Ranjan, Station Master.

The dead body has been shown as unknown person. On that basis, UD Case No. 21/2002 was registered. Thereafter, Police investigated the case, recorded the statement that the victim was running a dairy, he had proceeded on 4/7/2002 in the evening by Palamu Express to bring the fodder, while having told her wife that he would return in the morning



on 5/7/2002. When she could know that her husband had died whereupon her father-in-law, brother-in-law and some of the villagers went to Anugrah Narayan Station where they could know, the body of the victim has been sent to the Post Mortem there the body of her husband was identified. Other witnesses have said that the deceased died on account of fall from the train.

The inquest report dated 5/7/2002 is Ext.-A/5, from which it appears that foreign statement has been introduced therein after preparation of this inquest report. In column no. 2, it has been introduced that during investigation, it transpired that the name of deceased is Girija Sharma son of Jai Prakash Sharma @ Ram Bali Sharma is resident of Aargai, PS-Danel Nagar and District-Aurangabad. It appears that after investigation, foreign material has been introduced which makes this inquest report very doubtful. Post Mortem report has been marked as Ext.-A/6 where the Doctor has found that the death has occurred in between 48 to 72 hours and the Regor Mortis was found missing in the dead body and the body was brought in a very mutilated condition, even some part of the body was still traceless not brought during the post mortem, there itself the body has been shown unknown.

In the present case, the claimant has not been examined to support her case. According to the post mortem

report, the accident has taken place in between 2<sup>nd</sup> July to 3<sup>rd</sup> July 2002 and the story has been laid by the appellant that the victim had gone to Gaya to bring fodder on 4/7/2002 is completely doubtful. The manner the body has been collected it appears that he came under the running train that led to his death, on that account, as certain part of the body could not be traced which is apparent from the post mortem report. In case of fall at originating station, the body will not be found in such condition.

This Court is not satisfied with the story that has been laid by the appellant showing the manner the victim had met with an accident and as such, this Court does not find any merit in this appeal and accordingly, the same is dismissed.

**(Shivaji Pandey, J)**

Mahesh/-

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