

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.184 of 2010

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The Union of India through The General Manager, East Central Railway, Hazipur.

.... Appellant

Versus

Bholia Devivi, W/O Late Surat Rajak, R/O Village - Lohagir, P.S - Ujiyarpur,
District - Samastipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mahesh Prasad, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 09-01-2015

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

2. This is an Appeal preferred by the Railways against the compensation awarded by the Member (Technical), RCT/Patna Bench vide order dated 08.12.2009 in Claim Application No. OA 000115/2004 to compensate death of respondent's son Ranjeet Rajak, who while traveling through Train No. 5211 from Samastipur to Ludhiana met with an accident and died. The dead body of the deceased was disposed of by concerned authorities as unknown. Anyhow, roughly after 7 to 8 months, on the basis of photographs and belongings from the person of deceased, he could be identified and, then and then only,

the claimant - mother and other concerned could know about his death and preferred the claim application.

3. The Railways filed written statement and contested the claim but adduced no evidence in spite of production of documentary and oral evidence by the claimant as witness no.1, who has clearly said that she sent him off after boarding in the train and the deceased had purchased ticket but this statement remained unchallenged. Similar is the position of AW-3, Rajendra Kumar, a friend of the deceased, who also sent him off.

4. The verdict of the Claim Tribunal has been challenged by the Railways only on the ground that deceased perhaps was traveling on the roof of the train so the accident, if any, taken place that was due to his fault and ignorance of regular instructions announced by the Railways Authority prohibiting traveling on roof of the trains. But such defence is nothing more presumptive. In absence of any evidence in support of such assertion cannot be accepted especially when statement of the two witnesses on behalf of claimant about boarding of the deceased in a compartment of the train remained unchallenged.

5. Thus, this Appeal is devoid of any merit. Consequently, this Appeal is dismissed.

6. The appellant is directed to satisfy the award as awarded by the Member (Technical), RCT/Patna Bench vide order dated 08.12.2009 in Claim Application No. OA 000115/2004 within a period of two months from today with interest (as awarded by the Claim Tribunal), from the date of filing of the application till date of actual payment. Further, the respondent claimant is also directed to furnish the required bank mandate at the earliest but not beyond the period of one month.

Ashwini/-

(Akhilesh Chandra, J)

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