

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.30 of 2014

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Harendra Kumar @ Harendra Kumar Singh, son of Sri Mahendra Singh resident of village+ PO-Lari, P.S.-Kurtha, Dist-Arwal (Bihar).

.... Appellant/s

Versus

The Union of India through the General Manager, E.C. Railway, Hajpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shanti Pratap-Advocate

Mr. Arvind Kumar Varma-Advocate

For the Respondent/s : Mr. Anil Singh-Advocate.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL JUDGMENT

Date: 29-09-2015

Heard learned counsel for the appellant as well as learned counsel for the respondent.

2. Appellant is aggrieved by an order dated 28.10.2013 passed by the Member (Technical), Railway Claims Tribunal, Patna Bench rejecting claim of the appellant in connection with Claim Application No.0A 00002 of 2004.

3. Succinctly, the case of the appellant happens to be while the deceased was going to Gaya from Jehanabad on 30.11.2003 through Train No.8625 UP under valid ticket bearing no.17712 dated 30.11.2003 identifying the journey from Jehanabad to Gaya, unfortunately, she had fallen and meeting with death. It has also been pleaded that in the aforesaid facts and circumstances of the case, a sum of Rs.4,00,000/- be granted in lieu of compensation.

4. It has been contended on behalf of appellant that deceased was bona fide passenger, boarded the train under valid

ticket, and met with unfortunate incidence while travelling. Furthermore, the factum of death is fully proved by the documents prepared by the Railway Authorities themselves as well as is found further strengthen from police investigation. All the relevant documents are exhibits of the record. The learned Tribunal dismissed the claim on flimsy grounds in cryptic manner, hence is fit to be set aside.

5. Learned counsel representing the respondent has supported the finding arrived at by the learned Tribunal and further submitted that manner of incidence did not justify the plea of appellant that deceased died of an accident while travelling with train No.8625 UP.

6. From the order impugned, it is apparent that the learned Tribunal had taken note of the memo sent by the Station Master, Jehanabad Court to the Local G.R.P. on the basis of which Jehanabad G.R.P. Case no.35 of 2003 was registered, mentioning the date and time as 30.11.2003 at 4.30 p.m. That being so, the accident must have taken place earlier to that time. The aforesaid document has been relied upon by the appellant himself. From the report as well as pleading submitted by the respondent, it is apparent that Ticket No.17712 was issued in between 5.00 p.m. to 5.00 a.m. on 30.11.2003 and that being so, it could definitely be said that aforesaid ticket was subsequently planted. The aforesaid theme is found further supported

with the fact that in the memo, there happens to be specific disclosure that an information was conveyed by Binod Kumar, uncle of deceased Vidyawati Devi regarding the incidence and that Binod Kumar happens to be a witness to inquest. Furthermore, from inquest, it is evident that same was prepared on 30.11.2003 at about 5.30 p.m. The inquest further speaks presence of ticket. As the death of deceased had taken place much before 4.30 p.m. on 30.11.2003, then there was no occasion left for having a ticket which was sold on 30.11.2003 in between 5.00 pm. To 5.00 a.m. by the Railway, and this fact, as evident is uncontroverted one. At the other hand, the appellant, who solely come forward to support his plea, had also admitted presence of Binod, who, the reason best known to appellant has not been examined to controvert the timing, though been shown to be the person who informed the Station Master regarding unfortunate incidence. That being so, recovery of ticket from the possession of the deceased, being the ticket sold after the incidence, creates doubt over genuineness of deceased being bona fide passenger and on account thereof, discomfit the claim. The aforesaid theme has rightly been considered by the learned Tribunal and on account thereof, instant appeal is found de void of merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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