

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.110 of 2013

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1. Most. Nargis W/O Late Nausad Alam Resident Of Village Sihapur, P.S. Ajam
Nagar, District Katihar (Bihar).

.... Appellant/s

Versus

1. Union Of India Through Its General Manager, N.F. Railway, Kolkata.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pravin Kumar Gupta, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 14-08-2015

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

2. In the present appeal the appellant is challenging the
order dated 26.4.2012 passed by the Member (Technical),
Railway Claims Tribunal, Patna in Claim Application No.OA
000184 of 2000 by which he has rejected the claim application
of the appellant.

3. As per claim application, brief facts of the case is that on
17.7.1999 the claimant along with her husband and children
were traveling by Train No.4055 Dn. Brahmaputra Mail as
bonafide passenger from Barsoi Jn to Malda town railway
station. Her husband accidentally had fallen down from the
running train near Mukuria railway station due to jostling of

passengers for space and jerk of the train and he died on the spot itself. It has been claimed that deceased had purchased second class express train ticket from Barsoi Jn to Malda town railway station on 17.7.1999. The train ticket was lost during accident.

The Tribunal has exhibited the following documents:

Affidavit of Most. Nargis- Exhibit A/1

Affidavit of Md. Sahibal- Exhibit A/2

Photocopy of FIR and Memo- Exhibit A/3

Photocopy of inquest report- Exhibit A/4

Photocopy of Postmortem report-Exhibit A/5

Photocopy of final report- Exhibit A/6

Photo copy of voter identity card of most Nargis- Exhibit A/7.

4. In this case two witnesses have been examined. A.W.1, Nargis, in her statement has stated that she purchased two ordinary second class train tickets from Barsoi Jn to Khuriyal railway station for herself and for her husband. The date of journey is shown to be 17.7.1999 by train no. 50 DN passenger train. He boarded in the train along with his wife. There was heavy rush in the said passenger train so we could not occupy the seat. When the said train reached at Mukuria railway station



near platform no.1 the deceased fell down from the running train and died on the spot. Md. Sahibul (A.W.2) has also been examined he has claimed that he had purchased two tickets for victim and for his wife for train no. 50 DN passenger from Barsoi Jn to Khuriyal railway station and they have boarded at Barsoi junction. He got information from the passengers about the death of Nausad from running train. Nothing could be extracted during the course of cross-examination. The police registered the case on the basis of written memo submitted by the Station Master.

5. From the record it appears that the Station Master has given its report on 18.7.1999 stating therein that one unknown male person aged about 35 years was run over by B.G. train over platform no.I and arrange early disposal to avoid inconvenience of passengers. The police prepared the inquest report on 18.7.1999 where the condition of the body has been shown to be mutilated. The head was found separated from main trunk which is apparently clear from the inquest report. The police has submitted the final report where it has been mentioned that the victim was traveling by down train 62 and on account of push and pull the victim slipped out and died. The post mortem examination was conducted on 19.7.1999. It is also to be seen

that in the post mortem report the doctor has given its opinion that the death of the victim had taken place before more than 72 hours.

6. From the record it appears that at different stages the claimant has changed her stand. In the claim application it has been mentioned that the victim along with her husband and children were traveling from Barsoi junction to Malda town by Brahmaputra Mail and victim had died at Mukuria railway station. When she could know that story that has been framed is not sustainable she changed statement that she along with her husband and other children were going from Barsoi to Khuryal i.e. native village of the victim by 50 Dn passenger train and accident took place at Mukuria. In the story train number has been changed from train No.4055 to 50 Dn passengers train. So much so the police has given its final report showing that the victim and family members were traveling by passenger train 62 Dn. During argument it transpired that Bramputra train does not have any stoppage at Khutriyal railway station and there was no occasion to go to Khuriyal. Post marten examination was conducted on 19.7.1999 and the doctor has opined that death has been occurred more than 72 hours. If the time of death is taken from post-mortem report then the date of death



would shift to 16.7.1999. If the report of Station Master is to be looked into very minutely it appears that the victim was caught in a running train and he was killed. The manner the body has been found it appears that when a person dies on account of fall down from train at a railway station the dead body will not be found in such condition separated in different parts of the body. It will only happen when person caught under the running train. As word that has been used by the Station Master “run over” and there is nothing to show that the victim had fallen from the train, as well as claimant has taken different stand at different stages to make the case seriously doubtful of being bonafide passenger as well as comes under the frame work of untoward incident. It is also a very strange when a lady has given the statement that family members were traveling 50 down passenger train, amendment petition was filed. Amendment petition has not been allowed so the statement made in the claim application has remained unchanged. As per the story, she was with her husband but she has not been shown as informant, so much so she has not been shown in inquest report as witness makes her statement of being co-passenger not sustainable.

7. In this view of the matter, this Court does not find any

error in the order of the Tribunal. Accordingly this appeal is dismissed.

(Shivaji Pandey, J)

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