

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.581 of 2011

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1. Surendra Prasad, son of late Jamuna Prasad

2. Smt. Kailash Devi, wife of Surendra Prasad

Both resident of village – Bakhtiarapur Bazar, P.S. – Bakhtiarapur,

District – Patna.

.... Appellants

Versus

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

.... Respondent

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Appearance :

For the Appellant/s : Mr. Arun Kumar, Advocate

Mr. Ram Vinay Pd. Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 15-01-2015

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

2. This appeal has been preferred by the
appellants against the order dated 22.03.2011, passed in
Claim Application No. OA 00007/2002 by the Railway
Claims Tribunal, Patna Bench.

3. Admittedly, the claim was preferred by the
parents of the deceased Sanjiv Kumar @ Munna said to
have been coming from Patna to Bakhtiarapur, through
Train No. 3414 Down, Farakka Express, on 13.03.2001,
but nearing the destination he said to have fell down and
died and on the information given by a passenger case
was instituted finally, final report etc. was also

submitted.

4. The Claim is denied on the ground of some wrong committed on Exhibit – A(6) i.e. the Inquest report. Attested copy of xerox copy of which is also on the record and in column 5, 7 and 9 there appears some vital changes appearing from face of the document prepared, simultaneous with original with the help of the carbon. In column 5 over the orders “KAT KAR” it appears inserted “GIR KAR” and similarly in column 7, it appears inserted “PANT KE POCKET ME EK TRAIN TICKET JISKA NO. F00729395 HAI” and in column 9 the words “KAT KAR” appears changed by the words “GIR KAR”.

5. Learned counsel for the appellants have tried his level best by referring Rule 14 and 15 of Railway Claims Tribunal (Procedures) Rules, 1989, which reads as such: -

14. Filing of Affidavit – (1) The tribunal may direct the parties to give evidence, if any, by affidavit.

(2) notwithstanding anything contained in sub-rule (1), where the Tribunal considers it necessary for just decision of the case, it may order cross-examination of any deponent.

[(3) Every affidavit filed before the Tribunal shall be in Form VIII].

15. Filing of reply and other



documents by the respondents –

(1) Each respondent may file his reply to the application and copies of the documents on or before the date of hearing.

(2) In reply filed under sub-rule (1), the respondent shall specifically admit, deny or explain the facts stated by the applicant in his application and state such additional facts as may be found necessary in his reply.

[(3) When the respondent admits the facts stated in the application, the Tribunal may make order in this regard].

15-A. Filing of Rejoinder – The applicant intending to file rejoinder to the written reply filed by the respondent may do so with the permission of the Tribunal.

15-B. Admissions and denial of documents – The Tribunal may, before framing issues ascertain from parties or their authorized representatives whether they admit or deny documents accompanying the application or reply, if any, and shall record such admission and denial.

15-C. Marking of Documents – the documents filed by the applicant shall be marked as “A” series and the documents filed by the

respondent shall be marked as “R” series and the Tribunal exhibits shall be marked as “C” series.

And submitted that in the written statement filed by the Railway there is absolutely nothing challenging such document or raising finger against, but at the same time, when learned counsel was confronted with Rule 7 which reads as such –

7. Documents to accompany the application –

(1) Every application for compensation in respect of loss, destruction, damage, deterioration or non-delivery of animals or goods or in respect of refund of fare or freight shall be accompanied by the following documents, namely –

- (a) copy of the railway receipt/parcel way bill/ luggage ticket;
- (b) original sale invoice (Bijak), if any;
- (c) copy of order or letter, if any, of the railway administration deciding the claim of the party;
- (d) copy of the original certificate issued by the railway administration regarding loss, deterioration or damage to the goods, at the time of granting open delivery or assessment delivery;
- (e) copy of the notice under Section



106 of the Railways Act, 1989;

(f) Copies of any other relevant document in possession of the applicant.

(2) The documents referred to in sub-rule (1) may be attested by a legal practitioner or by a Gazetted Officer of the Central Government or a State Government.

(3) An Application filed under sub-rule (1) of Rule 5 by a legal practitioner shall be accompanied by a *Vakalatnama* and that by an agent shall be accompanied by a document authorizing him to act as such.

(4) When any document accompanying an application or reply appears to be defaced, torn, or in any way damaged or otherwise its condition or appearance requires special notice, a mention regarding its condition and appearance shall be made by the party producing the same in the index of such application or reply, as the case may be, and the same shall be verified by the Registrar.

He had left with no option but to concede that at the time of filing such documents nothing is pointed out from his end.

6. In face of such wrong committed by anyone at any point of time but before filing such documents by the claimant without any indication of such wrong which needs to have taken care of, there appears no reason to vary order of the Claim Tribunal. Hence, finding no merit in this appeal. It is hereby dismissed.

Rajeev/-

(Akhilesh Chandra, J.)

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