

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.456 of 2013

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Md. Riyaz Ansari S/o Md. Ismail Ansari, resident of village- Kusarahi, P.S.
Magadh Medical College, District Gaya.

.... Appellant/s

Versus

The Union of India through the General Manager, East Central Railway, Hajipur
(Bihar).

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Amar Nath Mishra, Anant Kumar no.1 and
Sahjanand Sharma, Advts.

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

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-09-2015

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

In this case, Akhtari Khatoon wife of appellant, Riyaz
Ansari was travelling by 051 UP Gaya-Dehri-on-Sone Passenger, met
with an accident on 8th June 2013 near Kastha Railway Station.

The short facts of this case is that the victim was
travelling from Kastha to Jakhim for her treatment, accidentally fell
down from the running train at the originating station itself and died at
the spot.

The Railways has filed the written statement and has
stated that victim slipped while boarding train and she was run over.
This accident took place not because of negligence of Railway

Administration.

In support of the contention, the appellant has produced altogether 9 documents which are as follows:-

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| 1 | Affidavit of Md. Riyaj Ansari | Ext.A/1 |
| 2 | Photo copy of Memo | Ext.A/2 |
| 3 | Photo copy of FIR | Ext.A/3 |
| 4 | Photo copy of Final Report | Ext.A/4 |
| 5 | Photo copy of Inquest Report | Ext.A/5 |
| 6 | Photo copy of Post Mortem Report | Ext.A/6 |
| 7 | Photo copy of Dependency Certificate | Ext.A/7 |
| 8 | Photo copy of receipt of Voter Identity Card of Reyaj Ansari | Ext.A/8 |
| 9 | Photo copy of receipt of Voter Identity Card of Akhtari Khatun | Ext.A/9 |

It also appears that the Railway has also filed a Station Diary which was marked as Ext.R/1 but that document is not available in the original record of the court below so it is a very serious matter with regard to the manner keeping the record. It also appears that the Registrar of the Tribunal had directed for production of the original record, but that order was not brought to notice of the Tribunal and he has decided the case only on the basis of photo copy of documents filed by the parties.

Ext.A/2 shows that a lady passenger met with an accident of run over by 051 UP at 6.45 hrs. at Station Section Kastha UP PF KM-478/03, on that basis, the First Information Report was instituted.



The Final Form was submitted wherein it has been mentioned that the victim had fallen, as she slipped while boarding the train. It appears that the Registrar of Tribunal had directed for production of the original record and so much so that the Station Diary which was filed by the Railways is not available on record and the Tribunal has not discussed the contents of that Station Diary and rejected the claim of the appellant on the ground of run over, not a bona fide passenger without examining the matter in a right perspective.

It appears that the Registrar has rightly directed for production of the original record and it is very difficult to rely upon the photo copy which can be manufactured and manipulated by any scientific method so it is always proper for the Tribunal to insist for production of the original record in case of doubt about genuineness of record. The Tribunal has a power under Section 18 of the Claim Tribunal Act to call for the records of the case and the person in whose possession the records are there, are bound to produce the same.

In such view of the matter, the order of the Tribunal is set aside and the matter is remanded back to the Tribunal with a direction to call for the original record from the G.R.P. as well as the Station diary from the Railway Administration. The G.R.P. and the

Railway Administration are directed to produce the original record and after receipt of notice from the Tribunal, the Tribunal will decide the case on its own merit within four months.

Accordingly, this appeal is disposed of.

(Shivaji Pandey, J)

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