

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.224 of 2013

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1. Madan Lal @ Madan Singh S/O Late Sanehi Singh Resident Of Village Bishunpur, P.S. Nokha, District Rohtas.
 2. Smt. Durgawati Devi W/O Madan Lal @ Madan Singh Resident Of Village Bishunpur, P.S. Nokha, District Rohtas.

.... Appellant/s

Versus

The Union of India through the General Manager, Eastern Railway, 3-Koelaghat Street, Kolkata-700001.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-12-2015

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

In the present appeal, the appellants are challenging the judgment and order dated 4.1.2013 passed in O.A. No.00361 of 2002 by the Member (Tribunal) of the Railway Claims Tribunal, Patna whereby and whereunder the Tribunal has rejected the claim of the appellant as the claim was made on account of death of the unmarried son of appellant while taking railway journey.

From the record, it appears that the appellants along with other minor sons were travelling from Phillaur Railway Station to Dehri-on-Sone by Satlaj-Ganga/ Ludhiana-Dhanbad/Kishan



Express Train No. 3308 DN. When train was passing through Durgabati Railway Station, on account of jerk, while the victim was washing his mouth near to the gate, on account of centrifugal force he slipped away and died. Appellants pulled the chain but it did not give any positive result. Ultimately, the appellants got down in the next railway station and they reached to place where the body of the son of appellants was lying.

From the record, it also appears that the appellants have produced the original ticket as well as the body of victim was recovered from down track near Durgawati Railway Station. Postmortem report also shows the death on account of fall from the train.

Learned counsel for the appellants submits that the Appellate Tribunal has not considered the relevant materials that were produced before him. He has ignored all the relevant documents and arbitrarily rejected the claim of the appellants.

Learned counsel for the Railway has fairly submitted that the order of the appellate court does not disclose the consideration of material brought before him and he submitted that in stead of deciding the case by this court, the same should be remanded back to the Tribunal for fresh consideration.

Having considered the rival contentions of the parties,

having perused the record and I find that original tickets, inquest report and postmortem report, Genealogical table as well as F.I.R and Final report are lying in the record of court below but the order does not disclose consideration of the materials that were brought by the appellants.

In such view of the matter, the order dated 4.1.2013 passed by the Tribunal in O.A. No.00361 of 2002 is hereby set aside. The matter is remanded back to the Railway Claims Tribunal to hear and decide the matter within a period of two months from the date of receipt/production of a copy of this order.

Accordingly, this appeal is allowed.

Office is directed to remit back the lower court records forthwith.

(Shivaji Pandey, J)

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