

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.368 of 2013

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1. Smt. Kaushalya Devi W/O Late Bhim Ram Resident Of Vill- Gewalbigha
(Painpar), P.O- Rampr, P.S- Rampur, Distt- Gaya (Bihar)

.... Appellant/s

Versus

1. The Union Of India Through The General Manager, East Central Railway,
Hajipur

.... 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: 08-12-2015

Heard counsel for the appellant and the respondent.

The appellant is challenging the order dated 24th April 2013 passed in Claim Application No. OA 00353 of 2003 passed by the Railway Claims Tribunal, Patna Bench, Patna by which the learned Tribunal has refused to grant any compensation to the appellant.

Short facts of the case is that one Bhim Ram, husband of the appellant who was posted as clerk in Arbal Block in the district of Arbal was traveling by train No.597 passenger from Jehanabad Railway station to Gaya Junction on 20th November 2003. During the course of journey, the deceased slipped and fell down from the train due to heavy rush in the compartment. The train was late from the Schedule time, when the train reached there was no light either in the compartment or on the platform. The body of victim was sent to Jehanabad Hospital as well as U.D. Case was registered, on the basis of Memo of the Station Master, Jehanabad. The post mortem of the deceased was conducted where Doctor found the cause of death due to hemorrhage and shock

on account of fall, victim died leaving behind his wife, Kaushlya Devi, three unmarried sons namely, Santosh Kumar, Subodh Kumar as well as Sandip Kumar and unmarried daughter, namely, Jyoti Kumari and Sandhya Kumari.

Apart from the U.D.Case, the present claim case was also filed where it has been stated that Train No. 597 passenger reached Jehanabad on 20th November 2003 at 17.06 hrs and departed at 17.08 hrs and at that time there was no light either in the compartment or on the platform which is apparently clear from the diary maintained by the Police. So the statement of late running of the train is completely wrong and the same is not sustainable.

It is also stated that the Railway has also disputed the over crowd in the compartment so much so that there was rush in the compartment, the victim was not required to travel in such a crowded compartment and he has died on account of his own fault.

The claimant filed her affidavit marked as (Ext-A-1), affidavit of Chandrika Prasad (Ext-A-2), Copy of Memo (Ext-A-3), Copy of final report (Ext-A-4), Copy of inquest report (Ext-A-5), Copy of P.M. Report (Ext-A-6) Copy of death certificate e (Ext-A-7), Copy of residential certificate (Ext-A-8) and Copy of Dependency certificate (Ext-A-9).

From the Memo issued by the Station Master, mentioning that an unidentified person had died on account of fall from the train whose body was lying, Station Master requested the GRPF, Jehanabad to take proper action. On the basis of Memo Police registered U.D. Case No.33 of 2003 after investigation final report was submitted where it has been mentioned that the deceased was Bhim Ram, his address was verified as well as his son had claimed the body was of his father Bhim Ram and the caste certificate recovered from the pocket of his father, was his certificate. The inquest report also shows that the Police prepared

inquest report at 7:30 P.M. giving description of the dead body. The Doctor who conducted the P.M.report gave his opinion that the death had taken place on account of injury received by the deceased due to fall.

Counsel for the appellant submits that the court below has not properly considered the case of the appellant, has erroneously rejected the same. There is no dispute that the deceased was Bhim Ram who died on account of fall from the train and the reason for dismissal of claim application is difference of age recorded at different document as in inquest report and in post mortem age has been recorded as 30 years but during investigation, the police found, Bhim Ram was aged 42 years. Assessment of age of dead body was simple a guess work not an actual age was recorded.

Counsel for the Railways submitted that after 10 years, Chandrika Prasad was examined who identified the deceased as Bhim Ram. Apart from this, there is no other material to show that the deceased was Bhim Ram. He further submitted that the inquest report was prepared an hour before registration of the U.D. Case which creates strong suspicion with regard to claim of the appellant.

Having considered the rival contentions of the parties it appears that the Memo was issued by the Station Master shows the age of deceased as 30 years approximately and the inquest report also shows that the person was unknown aged 30 years but the final report shows that the deceased was aged 42 years. Assessment of age by Station master, Police and Doctor were there guess work.

It also appears that from the pocket of the deceased, document i.e. caste certificate in the name of son of the deceased was recovered which itself is a connecting material to show that the deceased was Bhim Ram.

In the present case, some facts are undisputed. The person had

died on account of fall from the train, from the inquest report it is clear that the caste certificate of son of deceased was recovered from his pocket and it is also not disputed that the caste certificate was later on identified and it is also not disputed that the claimant is wife of the deceased. These are the clinching materials showing that the person died was Bhim Ram on account of accidental fall from running train, and in such view of the matter, the finding recorded by the Claims Tribunal is completely erroneous and not sustainable in law.

Accordingly, the impugned order is set aside and it is directed that the Tribunal will be obliged to pay Rs.4,00,000/- with 6 per cent interest and the appellant is directed to submit the mandate form within two months from to-day, failing which the appellant will not get any interest thereafter.

With this observation, this appeal is allowed.

Office is directed to remit back the records to the Tribunal forthwith.

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(Shivaji Pandey, J)