

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.695 of 2013

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1. Ramvilas Shah Son Of Late Mangal Shah Resident Of Village - Rajopur, Police Station - Khodanandpur, District - Begusarai (Bihar)

.... Appellant/s

Versus

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

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. KRISHNA MOHAN MURARI

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-09-2015

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

This appeal is directed against the order dated 6.9.2013 passed by the Railway Claims Tribunal, Patna in O.A. No.275 of 2003 by which the Tribunal has rejected the claim application of the claimant.

Brief facts of the case is that the victim was coming from Saharsa in train no. 5527 UP Katihar- Samastipur Hariharnath Express and in course of getting down with the mango basket, she slipped down in which she received multiple injuries and later on died on the spot.

The Railway Administration has filed written statement



where the railway has stated that scheduled arrival of the train at Hasanpur was about 22.08 hours but as per applicant the said train came at about 1 to 2 AM i.e. in the midnight of 13.7.2003. The train left the platform after proper exchange of signal between Guard and Diver. When the train was leaving the platform in slow motion after its scheduled stoppage the deceased in hurry tried to get down from the moving train which resulted into her death. The Railway Administration itself accepted the accident. The memo (Ext.A) was issued by the Railway Administration stating that a lady aged about 50 years killed by train, body was lying in line no.1 and requested for removal of the body.

The police has prepared the inquest report which shows that the body of the lady was found lying on platform no.1. During investigation the police has recorded that he was engaged in the trade of mango, used to purchase the same from Saharsa and selling the same at Hasanpur. While getting down with the basket of mango she slipped from the train and met with an accident.

The Tribunal rejected the claim of the appellant in absence of production of the ticket. The Railway itself has accepted the use of railway journey by the victim. The ticket

cannot be asked from a dead person to produce the ticket and that cannot be a ground to disbelieve the story of being a bonafide passenger.

In view of the judgment in the case of Smt Kaushalaya Devi and others v. Union of India through General Manager, North Eastern Railway, Gorakhpur, reported in 2008 (3) PLJR 711 where the court is of the view that when a person travels will be presumed that he is a bonafide passenger as the person who takes a ride if having no valid ticket is liable for prosecution. So much so even a person who entered into platform without valid platform ticket is also liable for prosecution. When the Railway has itself has admitted the journey by the wife of the claimant and accepting that she met with an accident while alighting from the train meets with an accident will fall under the untoward incident in view of the judgment of the Hon'ble Supreme Court in the case of Union of India V. Prabhakaran Vijaya Kumar and others, reported in 2008(4) PLJR 40 SC.

In such view of the matter it can not be said that the claimant could not make out a case of bonafide passenger and met with an untoward incident in view of Prabhakaran Vijaya Kumar case (supra).

In such view of the matter the impugned order is set aside.

The appeal is allowed with the compensation amount of Rs.4,00,000/-. The appellant is directed to file mandate form within a period of two months from today. In failure to file the appellant will loose the interest thereafter. The Railway is directed to pay 6% interest from 29.9.2005 till the date of actual payment. Office is directed to send back the lower court records to the court below forthwith.

(Shivaji Pandey, J)

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