

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.455 of 2012

(Arising out of Order dated 23.01.2012 passed by Member (Technical) Railway Claims Tribunal, Patna Bench, Patna, in Claim Case No. OA 00042 of 2001)

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Smt. Sunila Devi W/O Late Abinash Kumar Ray R/O Village-Badhouna, P.S.- Vidyapati Nagar, District- Samastipur (Bihar)

.... Appellant/s

Versus

Union Of India, through its General Manager, N.E. Railway, Gorakhpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pravin Kumar Gupta, Advocate

For the Respondent/s : Mr. Mahesh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA
ORAL JUDGMENT

Date: 02-02-2015

Heard learned counsel for the appellant Sri Pravin Kumar Gupta and learned counsel for the Respondent Sri Mahesh Prasad.

2. This is an appeal preferred against Order dated 23.01.2012 passed by Shri J.D. Goswami, Member (Technical), Railway Claim Tribunal, Patna Bench, Patna, in connection with Claim Application No. OA 00042/2001, seeking compensation against death of one Avinash Kumar Ray who died due to fall from the Train while he was traveling from Kolkata to Muzaffarpur.

3. It is pointed out that the Claim Tribunal has refused the claim only on the ground that the ticket

from Howrah to Muzaffarpur was not available with the deceased who was traveling from Train No. 3019 i.e. the train coming from opposite direction.

4. It is submitted that finding of the Claim Tribunal stated above lacks any corroborating materials. The Railway in its written statement, paragraph – 6, has stated about the inquiry conducted and arriving at the conclusion that the deceased fall from Train No. 5204 DN, but in spite of such pleading, neither there is any such report on record nor any one party to the said inquiry has come to say anything.

5. On the contrary, there are ample evidence on behalf of the claimant appellant, all the witnesses including maternal uncle namely Aklu Rai of the deceased have come to say that the deceased was traveling from Howrah to Muzaffarpur, having a valid ticket and maternal uncle of the deceased is only person who has send him off at Howrah after getting a valid ticket of Howrah to Muzaffarpur, but, it appears that the entries made in inquest report, at column – 9, perhaps lost sight of the Claim Tribunal and another concerned, wherein, there is specific mention of recovery of ticket from the person of deceased, but from Howrah to Samastipur, and undoubtedly, the Train, from where the deceased is said to have falling down had crossed Samastipur station. The accident took

place one station beyond Samastipur for which the deceased appears purchasing ticket. Consequently, due to traveling beyond the Samastipur Station, he cannot be said a *bona fide* passenger. Hence, he appears not entitled for any compensation.

6. Finding no merit in this appeal, it is hereby dismissed.

Rajeev/-

(Akhilesh Chandra, J.)

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