

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.628 of 2012

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1. Sabitri Devi Wife Of Late Jaikishan Roy Resident Of Village / Mohalla - Jamira,
P.O. - Jamira, P.S. - Ara Muffasil, District - Bhojpur

.... Appellant/s

Versus

1. The Union Of India Through The General Manager Eastern Railway, Kolkata

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. UMA SHANKAR, Adv.

Mr. Karandeep Kumar, Adv.

For the Railways : Mr. Anil Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-10-2015

The tribunal has altogether framed four issues, except one issue, all have been decided in favour of appellant but with regard to issue no.3 it has found the death has occasioned on account of fall from running train in which the victim lost his left hand and died. But so far issue nos. 1 and 4, there the court has arrived to the conclusion that as the appellant could not produce the ticket to show that the victim was bona fide passenger, it was held that appellant is not entitled to any relief.

Counsel for the appellant submitted that in view of the fact that the victim died on account of fall from the running train and that ticket became traceless on account of accident and that cannot be a ground to refuse the relief to the appellant. In support of his submission he has relied upon the judgment reported in 2008(3) PLJR 711 (Smt. Kaushlaya Devi v Union of India) where this Court has taken view that a passenger would not take risk of railway journey without ticket, if any passenger boarded the train or even entered into the railway platform is liable of fine as well as criminal prosecution.

Heard counsel for the appellant and the Railways.

In the present case appellant is challenging the judgment and order dated 20th October 2010 passed by the Railway Claims Tribunal, Bench, Patna in Case No. OA 00010/2001 whereby the Tribunal has rejected the application on the ground of victim not being a bona fide passenger.

From the record it appears that the victim was an employee of a private firm, namely, Pradeep & Company. On 19th July 2000 he left his house at 9.30 in the morning by bicycle and joined his duty. At 11 O'clock he left for Ara Railway Station, purchased 2nd Class ticket from Ara to Mughalsarai Junction. As there was heavy rush in the compartment, due to pull and push, the victim had fallen down from the running train, he was brought to Ara Hospital where the doctor suggested for better treatment at PMCH, Patna but on way, he succumbed to the injuries, brought back to Ara Hospital where the P.M. was conducted. As it appears that in that accident deceased had lost his left hand and on account of profuse bleeding, he could not survive.

The present appellant is the wife of the victim, filed claim application. Altogether ten documents were exhibited, namely,

- 1.affidavit of Savitri Devi - Ext-A/1
- 2.Afidavit of Kishundeo Rai-Ect-A/2
- 3.Affidavit of Bihari Yadav- Ect-A/3
- 4.Fard beyan- Ect-A/4
- 5.FIR/Final report Ect-A/5
- 6.Inquest report – Ect-A/6
- 7.P.M. Report Ect-A/7
- 8.Family index Ect-A/8
- 9.Residential certificate – .. Ect-A/9
10. Identity Card of appellant Ect-A/10

Counsel for the appellant submitted that in view of finding of

claim, the victim died on account of fall from train, claim application should not have been dismissed on account of non-availability of ticket, placed reliance on Kaushlya Devi case (supra).

Counsel for the Railways resisted the argument and submitted that appellant made improvement in the statement at different stages, according to her convenience, as at one stage she stated that the ticket became traceless and at another stage she stated that the ticket was available but it became traceless from them and, as such, her claim of victim being bona fide passenger is not true. When the Tribunal has arrived to a finding that the accident had occasioned on account of fall from the train, even if the ticket is trace less in view of the judgment in Kaushlaya Devi (supra) the victim is treated to be a bona fide passenger as Railway has not produced any material to show action against the victim having no valid ticket and on that account the appellant cannot be deprived of the claim.

In such view of the matter the impugned order is hereby set aside and accordingly, the Railway is directed to pay the claim of compensation of Rs.4,00,000/-. The appellant is directed to file mandate form within three months from to-day. In failure, she will not be entitled to any further interest thereafter. However, appellant will be entitled to 6 per cent interest from the date of filing the application.

Accordingly, this appeal is allowed.

Office is directed to return the lower court records to the court below forthwith.

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(Shivaji Pandey, J)