

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.176 of 2013

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SMT. SANYOKTA DEVI W/O LATE VIJAY SINGH R/O VILLAGE - BARAH,
P.S. HARNAUT, DISTRICT – NALANDA.

.... APPELLANT/S

VERSUS

THE UNION OF INDIA THROUGH THE GENERAL MANAGER, N.E.
RAILWAY, KOLKATA

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Amar Nath Mishra, Adv.
Mr. Anant Kumar No. 1., Adv.
For the Respondent/s : Mr. Anil Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 21-06-2016

Heard learned counsel for the appellant as well as
learned counsel for the respondent.

2. Appellant/claimant is aggrieved by an order dated
15.10.2012 passed by Railway Claims Tribunal, Patna Bench in
Claim Application No.OA 00233/2002 whereby and whereunder the
learned tribunal had rejected the claim petition.

3. On account of death of Vijay Singh, husband of
claimant/appellant allegedly on 21.03.2002, claimant has filed instant
petition divulging the grounds and further claiming that death was
ultimately resulted in an untoward incidence while travelling through
Bhagalpur Danapur Intercity wherein he boarded at Bakhtiyarpur



Station, and at the same place for which, the claim was maintainable in terms of Section 125 of the Railway Act and as such, claimed Rs.4 lacs as compensation. It has also been disclosed that on the fardbeyan of her son Dilip, Bakhtiyarpur (UD) Case No.08 of 2002 has been registered.

4. OPs/Respondents had controverted the allegation and further, put stress over onus which, claimant/appellant carries in order to substantiate its a case of untoward incidence.

5. While perceiving the submission made on behalf of respective parties as well as going through the order impugned, it is evident that learned tribunal had taken into consideration the disclosure having been made in the FIR (Ext.A/4) lodged at the behest of Dilip, son wherein he had specifically mentioned that his father was of unsound mind for the last ten years and further, was loitering hither and thither on account thereof.

6. Claim petition had alone been filed by Sanyukta Devi, wife without disclosing that how many siblings she had from her husband and further, petition was filed on behalf of all the siblings. Although presence of Dilip was there in the recital of the petition but the reasons best known to the claimant, she had not opted to allow him to stood over petition as a party. The aforesaid event was



purposely made in the background of presence of mental condition of deceased having disclosed at the end of Dilip. That happens to be reason behind that even during trial, a strange methodology was adopted by the claimant wherein withholding physical presence of Dilip for the purpose of cross-examination, filed his evidence on an affidavit and on account thereof, that had lost its legal identity.

7. From the petition, it is apparent that claimant was well aware of the averments whatever been at the end of her son Dilip regarding mental condition of the deceased, which, neither been properly explained nor denied at the end of the claimant. However, during course of trial, while examining herself to be as AW-1 she stated under para-9 of the affidavit that signature of Dilip was obtained by the police official on blank paper and then the narration was scribed in distorted way wherein purposely, intentionally and malafidely the mental condition of the deceased has been introduced by the police official that of unsound mind, which neither found in the petition nor has been substantiated by any cogent evidence that any sort of grudge was persisting which, provoked the police official to indulge in such kind of illegal activities. Furthermore, it was Dilip who was competent enough to depose, as fardbeyan was not recorded in the presence of claimant.

8. That being so, the learned tribunal had rightly doubted truthfulness in the version of the claimant and further, rejection of the same by the order impugned is found just, legal and proper whereupon needs no interference, consequent thereupon, instant petition sans merit and is accordingly rejected.

(Aditya Kumar Trivedi, J.)

PN/-

AFR/NAFR	AFR
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