

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.120 of 2013

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Anwari Khatoon W/o Late Md. Shamsul R/O Babuaganj, Ward No. 8, P.S. &
District - Khagaria (Bihar)

.... Appellant

Versus

The Union of India through the General Manager, N.E. Railway, Gorakhpur

.... Respondent

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Appearance:

For the Appellant/s : Mr. Bhagya Narayan Jha, Advocate.

For the Respondent/s : Mr. Anil Singh, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date: 03-11-2017

Heard learned counsel for the appellant and learned
counsel for the respondent on this appeal and perused the record.

2. The appellant has filed this miscellaneous appeal
against the order dated 17.09.2012 passed by Member (Technical),
Railway Claims Tribunal, Patna Bench in Claim Case No.
MA/PNBE/21 of 2001 whereby the learned Tribunal dismissed the
claim petition finding it time barred and not supported with any delay
condonation petition.

3. Factual matrix of the case is that the appellant filed



Claim Case No. MA/PNBE/21 of 2001 for awarding compensation to the tune of Rs. 4,25,000/- on account of death of her husband in train accident with the case in succinct that on 19.05.2001, her husband, namely, Md. Shamsul purchased second class train ticket no. 42458 from Salounna Railway Station to Khagaria Junction. He boarded the train no. 322 down Samastipur-Saharsa passenger train. There was heavy rush in the train, so he could not enter into the bogie of the train and located himself at the gate of the bogie. When the aforesaid train reached at Mathurapur village, he fell down from the said train due to jostling of the passenger and jerk of the train and died on the spot.

4. Without considering the claim petition on merit and materials available on record, learned Tribunal dismissed the aforesaid claim petition finding it time barred and not supported with any delay condonation petition.

5. Being aggrieved with the aforesaid order, the claimant has filed this miscellaneous appeal.

6. It is submitted by learned counsel for the appellant that the date of incident is 19.05.2001 and not 19.05.2000 as observed by the learned Tribunal. She has specifically mentioned the aforesaid date of accident in Para-7 and Para-9 of her claim petition though wrongly and inadvertently mentioned as 19.05.2000 in Para-6



of the same. But entire documents like FIR, fardbeyan, inquest report and final report submitted by the police insinuate the date of accident as 19.05.2001. But ignoring the said facts explicitly mentioned in the claim petition and documents filed by the appellant, the learned Tribunal has wrongly dismissed the claim petition finding the same as time barred.

7. From perusal of the record, it appears that the date of accident is 19.05.2001 and the said fact has been mentioned in documents like inquest report, seizure list, F.I.R. and final report submitted by the police. The appellant has also mentioned the said date in para-7 and 9 of the claim petition. He has filed claim petition within stipulated period of limitation on 27.07.2001. Thus, the claim petition does not appear to be time barred. The learned Tribunal perhaps only perusing Para-6 of the claim petition in which the appellant has mentioned wrong date of accident as 19.05.2000 instead of 19.05.2001 and without perusing the other documents available on record and observing that the said application has not been filed within stipulated period of limitation and not supported with any delay condonation petition has dismissed the same.

8. Hence, the aforesaid order passed by the learned Tribunal is wrong and illegal and is accordingly set aside. The appeal is allowed and the case is remitted back to the learned Tribunal with



direction to dispose it of as expeditiously as possible preferably within two months from the date of receipt or production of a copy of this order.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	

