

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.762 of 2011

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Madan Prasad, Son of Late Shivbaran Prasad Resident of Village -
Rampurbara, P.S. Pali (Kako), District - Jehanabad

... .. Appellant

Versus

The Union of India, through The General Manager, Eastern Railway, Kolkata

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Kumar Ravish
		Mr. Anant Kumar-1
		Mr. Kashyap Kaushal
For the Respondent/s	:	Mr. Anil Singh

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

ORAL JUDGMENT

Date : 29-10-2018

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

2. This miscellaneous appeal has been preferred against the order dated 24.05.2011 passed by the Member (Technical), Railway Claims Tribunal, Patna Bench, Patna in Claim Application No. OA00013/2002 whereby the learned Tribunal dismissed the aforesaid claim application.

3. Factual matrix of the case is that the claimant Madan Prasad filed Claim Application No. OA00013/2002 under Section 125 of the Railway Act, 1989 for awarding compensation to the tune of Rs. 4 lacs on account of death of his wife, namely, Ramdei Devi with the case in succinct that on 30.11.2001 wife of the claimant namely Ramdei Devi was



travelling from Gaya to Jehanabad holding a valid journey ticket by Train No. 596 Dn. Gaya-Patna Passenger. But as there was heavy rush of the passengers in the compartment, she fell down from the aforesaid train at Jehanabad Railway Station due to hustling and jostling of the passengers in course of alighting from the said train and was run over by the train slitting her body into two pieces in an untoward incident.

4. Railway put its appearance in the case and filed written statement. The claimant neither appeared before the court nor adduced any ocular evidence in the case. Though he has filed some documents such as inquest report, post mortem report and police report along with his claim application, but he has not got the aforesaid documents exhibited and after considering the facts and circumstances of the case and documents furnished by the claimant along with his claim application, learned Tribunal dismissed the aforesaid case of the claimant finding it not a case of untoward incident rather of run over.

5. Being aggrieved and dissatisfied with the impugned order of the learned Tribunal, claimant has preferred this miscellaneous appeal.

6. It is submitted by learned counsel for the



appellant that the deceased was travelling by Train No. 596 Dn. Gaya-Patna Passenger train as a bonafide passenger from Gaya to Jehanabad and fell down from the said train in the course of alighting from it at Jehanabad Railway Station due to jostling and hustling of the passengers and the documents filed by the claimant along with his claim application sufficiently establishes it to be a case of untoward incident, but learned Tribunal without any basis wrongly held it to be a case of run over.

7. On the other hand, it is submitted by learned counsel for the respondent that the claimant has neither adduced any ocular nor documentary evidence in buttress of his case. Though he has filed some documents such as inquest report, post mortem report and police report along with his claim application, but the same has not been got exhibited by him. As per the Rule 22-A (d) of the Railway Claims Tribunal (Procedure) Rules, 1989, documents not tendered into evidence do not form part of the records unless duly permitted by the Tribunal, but as the aforesaid documents filed by the claimant has not been tendered into evidence by him and there is no permission of the learned Tribunal for getting the aforesaid documents exhibited, virtually there is no evidence of the appellant and the aforesaid case of the appellant does not stand



established by any evidence. Hence, learned Tribunal considering the facts and circumstances of the case has rightly dismissed the aforesaid case of the claimant finding it to be a case of run over.

8. From perusal of the record, it appears that along with the claim application, appellant has filed the documents such as inquest report, post mortem report and police report, but appellant has neither put its appearance in the case nor adduced any ocular evidence in buttress of his case and also not got the aforesaid documents filed by him exhibited. As per the Rule 22-A (d) of the Railway Claims Tribunal (Procedure) Rules, 1989, aforesaid documents filed by the appellant has not been tendered into evidence and the learned Tribunal has also not permitted the aforesaid documents to be exhibited, hence the said documents do not form part of the records and cannot be taken into account by the Court as an evidence. But from perusal of the impugned order, it appears that despite not exhibiting the aforesaid documents by the appellant, learned Tribunal has considered the same in evidence taking recourse of the interest of justice and passed the impugned order which, in my considered opinion, is not as per the law and as per the Railway Claims Tribunal Rules, 1989. Hence, aforesaid order



passed by the learned Tribunal is hereby set aside and the case is remitted back to the learned Tribunal to consider the aforesaid documents relied upon by it after giving opportunity to the parties for exhibiting it.

9. This appeal stands disposed of accordingly.

(Prakash Chandra Jaiswal, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
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