

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.415 of 2004

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Smt. Shanti Devi, Wife of Late Shyam @ Jago (wrongly written as Shyam),
resident of village Makdumpur, Post Office Mankatha, Police Station
Lakhisarai, District Lakhisarai

... .. Appellant

Versus

The Union of India represented through the General Manager, Eastern
Railway, Calcutta

... .. Respondent

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Appearance :

For the Appellant : Mr. Krishna Mohan Murari, Advocate
For the Respondent : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 07-03-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been preferred, under

Section 23 of the Railways Act, 1989, against the judgment and

award dated 23.07.2004 passed by the Railway Claims Tribunal,

Patna Bench in Claim Application No. OA-000172 of 2002.

3. Appellant-Shanti Devi brought Claim Case No. OA-

000172 of 2002 before the Railway Claims Tribunal, Patna

claiming compensation for death of her husband Late Jago. Mr.

Jago was aged about 46 years and was an employee of the railway

in the capacity of Gangman. On 20.11.2001, Jago was travelling



on the referred train which met with an accident due to collision with a Diesel Engine which resulted in death of Jago. For death of her husband, the appellant got Rs.1,00,000/- (one lac) as ex-gratia compensation from the DRM, Danapur. The deceased died leaving the heirs mentioned in para 13 of the claim petition which includes the minor children of the deceased. The claimant is claiming compensation of Rs.4,00,000/- (four lacs) which was the statutory amount of compensation for death prevailing on the date of accident under Section 4 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. The aforesaid fact would be evident from Annexure-1, a copy of the claim petition available with the supplementary affidavit.

4. The Tribunal framed as many as four issues. First issue was whether the claimant proved that she is sole dependant of the deceased Jago. This very issue was decided against the appellant and claim case was dismissed for the reason that the children of the deceased were not impleaded as claimant in spite of



the fact that name of all the dependents of the deceased is disclosed in the claim petition.

5. Other issues as to whether the deceased was a bona fide passenger of the railway was decided in favour of the claimant.

6. Learned counsel for the appellant submits that the Tribunal has acted against the law and in arbitrary manner dismissed the claim of the appellant ignoring the facts that the name of minor children was disclosed in the claim petition. If the appellant did not implead the minors in the column of applicant, the Tribunal was competent to award compensation for them also and could have made direction for apportionment of the award but that was not a ground for rejection of the award.

7. I find substance in the submission of learned counsel for the appellant that the Tribunal has committed gross illegality in recording the aforesaid arbitrary finding. Hence, the impugned judgment dated 23.07.2004 passed in the aforesaid claim case by the Tribunal is hereby set aside and it is ordered that the appellant



would get Rs.4,00,000/- (four lacs) along with 9% interest from the date of death till date of realization. The interest had been awarded consistent with the direction of the Hon'ble Supreme Court in **Union of India V. Rina Devi** reported in **Accidents Claims Journal 2018 (III) 1441**.

8. Learned counsel for the Railway opposed the prayer for grant of interest on the ground that this miscellaneous appeal remained pending in this Court for long due to laches of the appellant in not making good the requirement as per office report or allowing the appeal to be dismissed for default which remained dismissed for a long period.

9. I do not find any merit in the submission aforesaid for the same reason that if the Tribunal would not have taken wrong view of the matter or if the railway would have paid the statutory compensation amount within time to his employee, the Courts' time would not have been wasted.



10. The compensation amount would be payable equally among all the children and wife because the children must have attained majority up-till-now.

11. Accordingly, this miscellaneous appeal stands allowed.

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
CAV DATE	NA
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