

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.509 of 2016

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Jaya Devi, wife of Late Subodh Paswan, resident of Village - Purav Tola
(Khanta), P.S. Kahalgaon, District - Bhagalpur.

... .. Appellant/s

Versus

The Union Of India Through The General Manager Eastern Railway Kolkata

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Anant Kumar-1, Adv.
For the Respondent/s : Mr.Anil Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-08-2019

Heard the parties.

2. This miscellaneous appeal under Section 23 of Railway Claims Tribunal Act, 1987 has been filed by the claimant against the judgment and order dated 30.01.2015 passed in Claim Application No. M.A. (OA) 0047 of 2004 passed by Member (Technical) Railway Claims Tribunal, Patna Bench by which the claim application of the claimant for grant of compensation on account of death of her husband in an untoward incident has been rejected by the claims tribunal.

3. Claimant/appellant who is the widow of deceased had filed an application before the claims tribunal for payment of compensation of Rs. 4,00,000/- (four lacs) on account of death of her husband who died in an untoward



incident. It is stated that on 19.04.2002 the deceased purchased a ticket and was coming to Kahalgaon from Bhagalpur and accidentally fell down from running train and died.

4. Written statement was filed on behalf of respondent/railways in which they have stated that deceased was not a bonafide passenger. No ticket was recovered from his possession and it was a case of run over and he met with an accident while crossing railway track and was knocked down by running train.

5. On the basis of pleading of the parties the tribunal framed four issues for its determination.

6. Claimant Jaya Devi appeared before the tribunal in her examination-in-chief in form of affidavit she stated that she and her husband with family resided in the village Bhati. P.S. Sabour and on 20.04.2002 in the morning she was informed that her husband had died in a train accident near Sabour railway station and after receiving said information she went at the place of accident and found the dead body of her husband lying between the track. She came to know from others that on 19.04.2002 from train no. 838 Dn. Jamalpur Sahebganj passenger her husband was returning Sabour Station from kahalgaon but he accidentally fell down and went between



railway track and was run over by the running train. Later on G.R.P. came and prepared inquest report and send the body for post mortem and thereafter it was handed over to family members for cremation.

7. As per information received from Sabour Railway Station through Dy.S.M. Bhagalpur addressed to in-charge of G.R.P., Bhagalpur, dated 19.04.2002 at 8:45 P.M., a person was run over by the train no. 838 Dn. On line no.1 and said information was received through one of the passengers of train of 838 Dn. and the dead body was lying on the track.

8. On the basis of said memo a U.D. Case was instituted by the G.R.P. giving rise to U.D. Case No. 12 of 2002 dated 20.04.2002 which was investigated by the I.O.

9. The inquest report was prepared by the I.O. on 20.04.2002 at 7:00 A.M., in which the cause of the death has been shown as run over by the train no 838 Dn. (Jamalpur-Sahebganj passenger). Exhibit- A4 is the post mortem report in which the death has been attributed to shock and hemorrhage from injuries sustained by hard and blunt object which also suggest case of run over and not falling from a train. In the F.I.R. the deceased was shown as unknown.

10. From the evidence and material available on



record it cannot be inferred to be a case of untoward incident where deceased died due to fall from the running train and even no ticket was recovered from his possession as such status of deceased as a passenger of said train is also doubtful. Deceased being a local a case of run over cannot be ruled out. The tribunal on consideration and appreciation of evidences placed before it rejected the claim case of appellant.

11. This court after re-appreciation and re-consideration of evidence on record and going through order passed by the tribunal is not persuaded to take a different view and as such is not inclined to interfere with the judgment and order passed by claims tribunal.

12. Accordingly, the present appeal is dismissed.

(S. Kumar, J.)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.10.2019
Transmission Date	NA

