

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.507 of 2016

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Gita Devi wife of Late Satish Kumar Pandey resident of Village/Mohalla -
Dihari, P.S. - Bihta, District - Patna.

... .. Appellant/s

Versus

The Union Of India Represented Through The General Manager East Central
Railway Hajipur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anant Kumar-1
For the Respondent/s : Mr. Ramadhar Shekhar

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-11-2019

Heard the parties.

This Appeal has been filed under Section 23 of the
Railway Claims Tribunal Act, 1987 for setting aside the Judgment
and order dated 05.12.2013 passed in Claim Application No.0A
00339 of 2005 passed by learned Member (Technical), Railway
Claims Tribunal, Patna Bench by which the claim application filed
by the claimant-appellant has been dismissed by the Claims
Tribunal.

Appellant-claimant had filed a claim application before
the Railway Claims Tribunal for grant of compensation of Rs. 4
lakh on account of death of her husband, Satish Kumar Pandey on
21.06.2005 in untoward incidence at Rajendra Nagar Terminal. It
has been disclosed in the claim application that on 21.06.2005, her
husband was traveling from Rajendra Nagar Terminal to New



Delhi after purchasing a second class ticket NoP79183158 dated 21.06.2005 and boarded Jansadharan Express at Rajendra Nagar Terminal. However, due to heavy rush, the passengers were jostling with each other and Satish Kumar Pandey accidentally fell down while standing near the gate and slipped between railway track and was run over by the moving train resulting into his spot death. The Railway in their written statement have denied the claim of applicant and they have denied any untoward incident as no post-mortem of the dead body was conducted nor any information of said accident was given to Railway. Deceased was neither *bona fide* passenger nor he died in untoward incident. On the basis of rival pleadings, the Claims Tribunal framed four issues for its determination.

A-3 is a written complaint filed by Kamaldeo Pandey, father of the deceased addressed to Officer in-charge, Raiwlay P.S. Patna Junction, upon which Patna Junction U.D. Case No.52 of 2005 dated 24.06.2005 was instituted. A-4 is identity card of deceased, Satish Kumar Pandey and A-5 is the death certificate of deceased, Satish Kuamr Pandey. Exhibit A-6 is the death certificate of Kamaldeo Pandey who is informant in this case. Exhibit A-7 is dependant certificate and Exhibit A/8 and A/9 is the identity card of Geeta Devi and Rampari Devi.



Geeta Devi (A.W.) in her examination-in-chief on affidavit has stated that her husband died on 21.06.2005 while traveling from Rajendra Nagar Terminal to New Delhi Railway station after having purchased second class ticket along with his father Kamaldeo Pandey. Due to heavy rush and jostling of the passenger, he felled down at the Rajendra Nagar Terminal and slipped between the track and was run over by the moving train. He died on the spot. In her cross-examination, she stated that her father-in-law became unconscious and he remained unconscious when the dead body was brought. No information was given either to the police station or to Railway authorities. In her deposition the claimant had accepted that she resides in the village which is near to Danapur Railway Station, as such, the Tribunal has disbelieved that her husband and father-in-law will come to Rajendra Nagar Railway station to board the train when said train stops at Danapur Railway station also.

Claimant could not establish that her husband died in an untoward incident. The accident is claimed to have taken place on 21.06.2005, however, FIR was instituted on 24.06.2005 and although the accident is claimed to have taken place in Rajendra Nagar Terminal station but no information was given to station superintendent of Rajendra Nagar Terminal or to Railway P.S.



station at Rajendra Nagar Terminal which makes the case of the claimants doubtful.

The Tribunal has observed that claimant has failed to produce copy of FIR, inquest report and postmortem report, as such, the claimant has failed to produce necessary evidence to establish that her husband died in an untoward incident. No post-mortem was performed of the dead body which is quite unnatural as in every accident, post-mortem is performed on the dead body. Claimant has also not produced any station memo with respect to said incident and as such has disbelieved the claim case of the claimant.

Having gone through the order passed by the Railway Claims Tribunal and materials available on record, this Court does not find any error or infirmity in the order passed by the Tribunal requiring any interference by this Court. As such, this Misc. Appeal is dismissed.

(S. Kumar, J)

sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.02.2020
Transmission Date	04.02.2020

