

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.508 of 2016**

=====

Kailasi @ Kailashy Devi wife of Late Ram Baran Yadav resident of  
Village/Mohalla - Suresh, P.S. Cumpierganj, District - Gorakhpur U.P..

... .. Appellant/s

Versus

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

... .. Respondent/s

=====

**Appearance :**

For the Appellant/s : Mr.Anant Kumar-1, Adv  
For the Railways : Mr. Ashok Kr Keshri, Sr. Adv Railway & Ms.  
Seema Kumari, Adv Railway

=====

**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**

**Date : 19-07-2019**

Heard learned counsel for the parties.

2.This appeal under Section 23 of the Railway Claims Tribunal Act, 1987 has been filed on behalf of Claimant-appellant against the judgment and order dated 19.06.2014 passed in Claim Application No. OA00248 of 2005 passed by learned Member(Technical) Railway Claims Tribunal, Patna Bench, Patna, by which claim application of Claimant-appellant was dismissed by the claims tribunal.

3. Claimant-appellant who is widow of deceased has filed an application for grant of compensation of Rs. 4 Lacs stating therein that on 24.04.2005 after purchasing a valid train ticket from Dhanbad to Mughalsarai the husband of the Claimant-appellant Ram Baran Yadav boarded Train No.



9306(Howrah-Indore Shipra Express) at Dhanbad junction for going to Mughalsarai from where he was to go to his native village. It is further stated in the claim application that there was heavy rush in the Train and Ram Baran Yadav was standing near the gate of compartment and while Train was passing through Paharpur station due to sudden jerk, he lost his balance and accidentally fell down from the running train and died.

4. Written statement was filed on behalf of Railways in which they have denied the claim of Claimant-appellant stating therein that deceased did not die in an untoward incident, as such Claimant-appellant is not entitled for any compensation. It is further stated that neither the Guard nor the TTE or any fellow passenger or local person has reported the incident of 24/25.04.2005.

5. On the basis of rival pleadings, the Tribunal framed four issues for its determination.

6. Claimant-appellant examined herself as a witness before the Tribunal, in which she has supported her claim case. She has stated that at the time of occurrence she was in her village. She was informed on phone that deceased was coming by said Train. Her husband was Drilman in BCCL, Dhanbad, and was coming to his village and when her husband did not



reach home, family members started searching him and reached Rail P.S. Gaya on 28.04.2005 and thereafter went to ANM, Medical College, Gaya, where dead body was identified and received after post mortem. In support of her claim case documentary evidence were produced which were marked as Exhibits by the Tribunal.

7. Exhibit-2 is the station memo dated 27.04.2005 issued at 3:00 pm by Station Manager, Paharpur Railway Station to the Officer-in-charge, GRP, Gaya, that a dead body is lying near Up-line ahead of Paharpur Station upon which Gaya Rail P.S. UD Case No. 27 of 2005 dated 27.04.2005 was registered and ASI J.P. Mishra was handed over the case for investigation and to submit report. Exhibit-3 is the inquest report prepared by the I.O. dated 27.04.2005 at 4:30 pm in which it has been stated that a dead body of unknown male aged about 40 years has been found ahead of Paharpur station near Up-line and dead body was in a decomposed state and it was observed that it appears that deceased died due to fall from Train and thereafter the dead body was sent for post mortem and post mortem was conducted and in his post mortem report cause of death has been attributed to shock and hemorrhage by injuries on head by hard and blunt substance and time elapsed since



death has been stated to be 48 to 72 hrs. Exhibit-4 is post mortem report of the deceased. A communication issued by BCCL has been produced by the Claimant in which Bharat Coking Coal Ltd. has informed that Ram Baran Yadav was posted as Ringman and he belonged to UP.

8. The Claims Tribunal has held that according to Claimant, deceased boarded the Train on 24.04.2005 from Dhanbad to Mughalsarai and died due to falling near Paharpur station from said Train and the dead body between 24.04.2005 to 27.04.2005 remained unnoticed when the rail route is very busy and during this period, no Driver, Guard, TTE, Gangman or other persons have informed to the police about the unknown dead body lying near the track, as such the case of Claimant cannot be accepted. The Claims Tribunal has also found that no reason or explanation has been provided that how the dead body remained lying unnoticed from 24.04.2005 to 27.04.2005. The Tribunal has also opined that if the dead body was lying between 24.04.2005 to 27.04.2005 then it should have decomposed or wild animals ought to have eaten it and on said ground, rejected the claim of applicant.

9. Deceased was employed in BCCL in Dhanbad is not disputed rather a document issued by BCCL to said effect is on



record. Deceased belonged to U.P. is also proved by documents produced by the Claimant before the Tribunal, as such there can be no reason to disbelieve that deceased boarded the Train on 24.04.2005 from Dhanbad for Mughalsarai and fell from the running train near Paharpur station and died which is corroborated by the inquest report where it is stated that dead body was found in a decomposed state and in post mortem report also, time elapsed since death is stated to be 48 to 72 Hrs. which proves death of deceased on 24/25.04.2015 which supports the case of Claimant-appellant. There cannot be any other explanation / reason of recovery of dead body of deceased from such place except that he died from falling from Train as his dead body was recovered ahead of Paharpur Railway Station near the railway track where he could not have been ordinarily found as he worked in Dhanbad and was going to Mughalsaraiby train in order to go to his native village. The case of the Claimant-appellant has also been found to be true in the final report submitted by the police after conducting full fledged enquiry and investigation with respect to reasons and circumstances leading to death of deceased. The judgment and order passed by Tribunal is based upon ipse-dixit, conjecture-surmises and assumption-presumption and not on correct



reading and appreciation of material evidence on record which rules out any probability of death of deceased other than falling from the Train which is fully supported by the inquest report as well as post mortem report and final report submitted by the police as well as attending circumstances.

10. Accordingly, the judgment and order passed by the Tribunal is set aside and appeal is allowed. Respondent-Railways is directed to pay the compensation of Rs. 4 Lacs to the Claimant-appellant within three months from the date of production/receipt of a copy of the order passed by this Court with interest @ 6 per cent per annum from the date of application till its payment.

11. The miscellaneous appeal stands disposed of.

12. LCR of this case be returned to the concerned Tribunal forthwith.

**(S. Kumar, J)**

ranjan/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 23.10.2019 |
| Transmission Date | NA         |

