

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No. 601 of 2014

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Rukaiya Khatoon wife of Late Noor Alam resident of Village - Bedwalia , P.S.
Derni. District- Saran Chapra, Bihar.

... .. Appellant/s

Versus

The Union Of India through the General Manager East Central Railway,
Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anant Kumar-1, Adv
For the Respondent/s : Mrs. Seema Kumari, Adv

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 26-03-2019

Heard learned counsel for the parties.

2. Appellant-Rukaiya Khatoon had brought Claim Case No. OA 00140 of 2005 before the Railway Claims Tribunal, Patna Bench, claiming compensation of Rupees Four Lacs for death of her husband-Noor Alam in an untoward incident on 09.01.2005. The Tribunal declined to grant any compensation to the appellant on the ground that appellant failed to prove that the unknown dead body was of her husband-Noor Alam or that she was wife of Noor Alam.

3. The case and claim of the appellant is that her husband-Noor Alam was travelling on train alongwith valid railway ticket bearing No.35565421 dated 09.01.2005 from Srirampur to Dighwara. On the way, he fell down from the running train and got injury which resulted in subsequent death. For the



aforesaid occurrence, a police case was registered vide Sonapur U.D. Case No.02 of 2005. The inquest report brought on the record revealed that injury on different parts of the body of an unknown person was noticed and according to opinion, the death was result of fall from a running train. A photo copy of the inquest report is at Ext.A/5. The memo vide Ext.A/6 indicates that dead body was of an unknown person. The postmortem report is at Ext.A/7 reveals that postmortem examination was performed on unidentified body. A certificate of death of Noor Alam was brought on the record as Ext.A/9 and photo of the dead body of Noor Alam was brought as Ext.A/10. The appellant gave her statement on oath alongwith her identity card issued by the Election Commission of India vide Ext.A/12 which reveals that she was wife of Noor Alam.

4. The Tribunal has recorded that the dead body remained unidentified for a long period. Hence, mere production of death certificate and oral evidence of the claimant would not suffice the purpose.

5. Contention of learned counsel for the appellant is that there is no other claimant nor there is any contrary evidence on the record to substantiate that appellant was not wife of Late Noor Alam. The learned Tribunal has adopted rule of strict proof,



whereas the statute is social beneficial legislation. Hence, preponderance of probability, of acceptance of the case of the appellant, should have been the guiding factor. The material available on the record leads to only conclusion that appellant was wife of Noor Alam. The consideration of the Tribunal that for long the dead body was lying unidentified cannot prevail upon the claim of the appellant in absence of any evidence to the contrary.

6. Learned counsel for the respondent submits that the finding of the Tribunal is based on material on the record and tendency is growing to put-forward claim in respect of a dead person not being related to the claimant. No other witness has come up to corroborate the claim of the appellant that she was wife of Noor Alam, even the voter identity card was created subsequent to death of Noor Alam.

7. Considering the material on the record, in my view, the Tribunal was not justified in negating the claim of the appellant on the basis of material brought on the record. Even affidavit of the claimant /appellant was sufficient to prove her case in the facts and circumstances, where other evidences corroborate that an unknown person died in an untoward incident and the appellant claimed that unknown person was her husband Late Noor Alam. Hence, the impugned order of the Claims Tribunal is



hereby set aside and it is ordered that the respondent shall pay Rupees Four Lacs to the claimant alongwith 9% interest from the date of making of the application within 30 days.

8. With the aforesaid observation, this appeal stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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