

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.423 of 2016

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Puja Devi w/o Late Vivek Kumar Ray, r/o Village Dumri (Hareram Patti) PS
Rahika, District Madhubani.

... Applicant ... Appellant/s

Versus

The Union Of India Through General Manager, E.C. Railway, Hajipur.

... Respondent/s

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Appearance :

For the Appellant/s : Mr.Sanjay Kumar, Adv
For the Respondent/s : Mr. Ashok Kumar Keshari, Adv
and Ms. Kalpana, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
CAV JUDGMENT

Date : 20-08-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been filed by the Claimant-Appellant, for setting aside the judgment and order dated 30.03.2016 passed by learned Member (Judicial), Railway Claims Tribunal, Patna Bench, Patna, in OA No. 00524 of 2014, by which claim application filed by claimant-appellant has been dismissed.

3. Briefly stated, the facts of the case as set out in



claim application is that on 09.04.2014, after purchasing of second class ticket the husband of Claimant-Appellant Vivek Kumar Ray, boarded Train No. 55519 Up (Passenger Train) at Darbhanga Junction for going to Madhubani Junction and when the train was approaching Madhubani Junction, the husband of Claimant-Appellant Vivek Kumar Ray, reached near the gate of the train to deboard but due to heavy rush, jostling of passengers in the compartment, he lost his balance and accidentally fell down from the running train at Madhubani station as a result of which he sustained injuries and died on the spot. The belonging and railway ticket of the deceased got lost.

4. The Railways filed their written statement in which they have denied the claim of the Claimant-Appellant and have stated that it is not a case of untoward incident but a case of run over as such Claimant-Appellant is not entitled for compensation. Deceased was not a bonafide passenger as no train ticket was recovered from his possession.

5. On the pleading of the parties, the Claims Tribunal framed four issues for its determination.

6. Claimant-Appellant in her examination-in-chief in form of affidavit supported her claim case as disclosed in the claim petition. In her cross-examination she has stated that she



has not seen her husband either purchasing ticket or boarding the train. She has not produced the train ticket as the same was lost. At the time of incident she was in home and she got knowledge of the incident from her neighbours. Her husband was travelling alone. She has denied that her husband was run over by the train while crossing the railway track. No other witness has been examined on behalf of Claimant-Appellant.

7. Exhibit-A1 is a station memo dated 09.04.2014 issued by the Station Superintendent addressed to the Officer-in-charge of GRP, Jainagar that one unknown person aged about 25 years, according to guard of the Train No. 55519 Up (Passenger Train) is lying dead on line no.3.

8. On the basis of said station memo, Officer-in-charge GRP, Jainagar entrusted ASI, Md. Dastagir to inquire and take further steps in the matter including lodging of Sanaha. On receiving said information, I.O. reached the place of incident and recorded fardbeyan of Bhola Prasad Purbe - Station Superintendent of Madhubani Railway Station at Platform No. 3 on 09.04.2014 at 12:30 hours in which the Informant Station Superintendent stated in his fardbeyan that he is posted as Station Superintendent, Madhubani and on 09.04.2014 Guard Anil Kumar Singh of Train No. 55519 Up (Passenger Train)



informed him that one person aged about 25 years fell down while boarding/alighting from the train and was run over by the train.

9. Inquest report was prepared by the I.O. on 09.04.2014 at 1 p.m. in which the place of incident has been stated to be Platform No. 3 in front of the main gate. Body was severed into two pieces. Cause of death has been stated to be falling from Train No. 55519 Up (Passenger Train). The dead body was thereafter sent for postmortem to Sadar Hospital, Madhubani.

10. Postmortem was conducted at 3:25 pm on 9.4.2014 in which multiple abrasion over chest, lacerated wound, fracture of bone, amputation of fore-arm and thigh, and wound over head and other injuries were found. Time elapsed since death is stated to be within 24 hours.

11. On the basis of fardebyan, FIR was instituted by Darbhanga (Jainagar) Rail P.S. on 10.04.2014 at 9:30 pm giving rise to UD case No. 14 of 2014 in which it has been recorded that investigation has already been handed over to I.O. and who is conducting the investigation. After investigation the IO submitted its final report in which it was found that deceased died due to falling from train no.55519.



12. From the materials and evidence placed before the Tribunal, it is apparent that Superintendent of Madhubani Railway Station issued a memo dated 09.04.2014 to Officer-in-charge of GRP, Jainagar informing that the Guard of Train No. 55519 Up (Passenger Train) has informed that one unknown person aged about 25 years is lying dead on Line No. 3 and to take appropriate action. On the basis of which Officer-in-Charge of railway police station entrusted investigation to ASI Md. Dastagir on 09.04.2014 with a direction to institute Sanha. The Investigating Officer Md. Dastagir thereafter recorded statement of Bhola Prasad Purbe Supdt. of Railway Station, Madhubani at Platform No. 3 in which Station Supdt. Madhubani in his fardbeyan stated that on 09.04.2014 the Guard of Train No. 55519 Up (Passenger Train) Anil Kumar Singh informed him that a person aged about 25 years while boarding or alighting the train fell down and was run over and thereafter he reached the place of occurrence and found one unknown person aged about 25 years was lying dead on Line No. 3 after being run over by the train. Thereafter inquest report was prepared on the same day and body was sent for post mortem examination and it was conducted on the same day and the injuries found in the post mortem report also support the statement of Station Master



as well as claimant.

13. Final report was submitted by the police which also supports the claim of claimant-appellant that the deceased died while alighting from the moving train and accidentally fell down and slipped between the railway track and was run over by the moving train.

14. The attending circumstances and materials available on record fully supports the case of the claimant-appellant that the deceased died while he was alighting from the train at Madhubani station he fell down on platform no. 3 from the moving train and slipped between the railway track and was run over by the moving train.

15. The claims tribunal has rejected the claim application on the ground that there was contradiction in station memo issued by Station Master, Madhubani (Ext.A/1) and his fardebyan recorded by investigating officer (Ext.A/2), however, this Court does not find any major contradiction between the two statements in order to disbelieve the entire incident. The tribunal has also dismissed the case of appellant as no ticket was recovered from the possession of deceased and found it to be a case of run over and not a case of untoward incident.

16. As far as non-recovery of train ticket from the



possession of deceased is concerned, railways have issued a circular dated 11.11.1997 vide No.96/T.C.-III-85-87 addressed to the General Managers (Claims) in which it has been directed that compensation should be paid irrespective of bona fide authority to travel has been produced or not. Relevant extract of said circular is quoted below:-

"In the event of a train accident resulting in the death of a passenger travelling by the train, compensation should be paid irrespective of whether bonafide authority to travel has been produced or not."

17. After hearing both the parties and considering the materials available on record, this Court finds that claimant has been successful in establishing on the basis of documentary evidence and surrounding circumstances that deceased died in an untoward incident and she is entitled for grant of compensation. Accordingly, the judgment and order dated 30.03.2016 passed by Member (Judicial), Railway Claims Tribunal, Patna Bench, Patna, in OA No. 00524 of 2014, is set aside and the claim application of the claimant-appellant is allowed.

18. The respondent-Railways are directed to pay the claim amount of Rs. 4 Lacs to the claimant-appellant with interest @ 6 per cent per annum from the date of accident till its



realization within three months, from the date of receipt/production of a copy of the order passed by this Court.

19. LCR of this case be returned to the court concerned forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	28.06.2019
Uploading Date	30.10.2019
Transmission Date	NA

