

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.769 of 2013

Daya Devi W/O Late Binod Prasad Singh Resident Of Village- Dharahara
PoandPs- Dharahar, Distt.- Munger Bihar Appellant/s

Versus

The Union Of India, Through The General Manager, Eastern Railway, 3
Koelaghat Street, Kolkata Respondent/s

Appearance :

For the Appellant/s : Mr.Krishna Mohan Murari, Adv
For the Respondent/s : Mr. Bijoy Kumar Sinha, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 28-08-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been filed for setting aside the judgment and order dated 13.11.2013 passed in Claim Application No. OA00293 of 2005 passed by learned Member (Technical) of Railways Claims Tribunal, Patna Bench, Patna, by which the claim application filed on behalf of claimant-appellant for grant of compensation has been rejected by the Railway Claims Tribunal (hereinafter referred to as the 'Tribunal').

3. Briefly stated, the facts of the case as stated in the claim application is that applicant Daya Devi is widow of Late Binod Prasad Singh who died in an untoward incident due to injury sustained by him in Rail accident.

4. It has been stated that on 11.07.2005 the husband



of claimant-appellant having valid journey ticket bearing No. 47508 was travelling from Jamalpur to Lakhisarai by 3133 Up (Sealdah-Varanasi Express), when he accidentally fell down from train due to sudden jerk and died on the spot.

5. Written statement was filed on behalf of Railways in which they have denied the claim of claimant-appellant and have stated that deceased was not a bonafide passenger and died due to run-over by the train while crossing the railway track.

6. On the basis of pleading of the parties, Tribunal framed four issues for its determination.

7. In support of her claim case, claimant has produced documentary evidence which have been marked as Exhibits by the Tribunal. Exhibit A/2 is final report submitted by G.R.P, Exhibit-A/3 is the Challan of the dead body of deceased, Exhibit-A/4 is the post mortem report, Exhibit-A/5 is the memo issued by Dy.S.M, Jamalpur, Exhibit-A/6 is copy of Railway Ticket, Exhibit-A/7 is the death certificate, Exhibit-A/8 is the inquest report, Exhibit-A/9 is the original journey ticket, Exhibit-A/11 is the family member certificate issued by the Circle Officer, Dharahara, Munger, Exhibit-A/12 is the voter identity Card of the claimant.



8. Applicant in her examination-in-chief in form of affidavit has supported her claim case and in her cross-examination she has stated that the distance of Dharahara from Jamalpur is 3 Kms. Her village, station and post office is Dharahara. At the time of incident, she was at home. Villagers informed her about the incident. She could not find any co-traveller who was accompanying her husband.

9. On analysis of oral and documentary evidence as well as materials available on record, it transpires that the station memo was issued by Station Master on 11.07.2005 at 2:05 pm addressed to the Officer-in-Charge of G.R.P., Jamalpur, that as per Station Master, Dharahara, one man was run over and killed near Dharahara Station upon which UD Case No. 18 of 2005 dated 11.07.2005 was registered and the case was handed over to ASI Bhagwan Murmur for investigation and submission of Final report.

10. The Investigating Officer, thereafter reached the place of occurrence and prepared the inquest report on 11.07.2005 at 3:00 pm in which it has been recorded that on the Western Outer Signal 100 Gaz West from the West Outer Signal of Dharahara station a dead body was found on 11.07.2005 at 4:00 pm. From the upper pocket of shirt, a train



ticket was recovered which was of destination from Jamalpur to Lakhisarai. It has been opined that due to accident from an unknown train he died. The dead body was thereafter sent for post mortem to Sadar Hospital, Munger, which was received at 8:10 am on 12.07.2004 and post mortem was conducted at 9:30 am in which it was found that the body was cut into two pieces, right upper limb was also cut from arm. Ribs were fractured and cause of death has been opined due to haemorrhage and injury caused to the vital organ by hard and very blunt substance.

11. After investigation, Investigating Officer, submitted his final report in which he has found that on 11.07.2005, deceased was travelling from Train No. 3133 Up from Jamalpur to Lakhisarai and as train proceeded ahead of Dharahara station, deceased fell down and came beneath the running train and was crushed by the moving Train and from his possession journey ticket bearing No. 47508 was recovered and submitted the final report that deceased died due to fall from Train No. 3133 UP (Sealdah-Varanasi Express).

12. The respondents have also brought on record station diary which has been marked as R-1 to establish that it



was not a case of untoward incident but deceased was run-over while he was crossing the railway track, according to which at about 1:55 Station Master reported that one villager Amit Kumar informed him that one person was run over and his dead body was lying inside the track.

13. The Tribunal has disbelieved the claim case of claimant-appellant for the reason that inquest report and post mortem report make it clear that the deceased came under the Train which was not possible in case of fall from running train. If the passenger falls from running train he may get seriously injured due to impact of the fall, and parts of body may get cut but his body cannot come inside the railway track. Such accident can only happen when someone is crossing the track and knocked down by running train. The Station Diary Exhibit- R1 also suggest that a person was run over and there was no report that any person had fallen from running train. The deceased belonged to the same place as such his presence there, was not unnatural, however, there is no explanation with respect to recovery of train ticket from the pocket of deceased. The tribunal has disbelieved the case giving strange reason that mere production of ticket does not indicate that the deceased was travelling by the alleged train and during the



journey, he fell down from the train and got run over.

14. Inquest report and final report are public documents which are prepared by the government officials in discharge of their official duty and it is presumed that same is correct unless contrary is proved. The tribunal has disbelieved these documents on the ground that some insertions have been made in said documents which could not be explained by the claimant. There is no onus on the claimant to explain discrepancies in said documents as doubted by the tribunal as those documents are not his documents but public documents.

15. In view of the final report submitted by the G.R.P. in which the Investigating Officer has found after investigation that deceased was travelling from said train and fell down ahead of Dharahara station and came in sweep of running train and was crushed to death, coupled with the recovery of train ticket from his pocket during preparation of inquest report which was prepared soon after accident and which was from Jamalpur to Lakhisarai, as such it is difficult to believe that same could be planted by someone in such a short time. It cannot be said that under no circumstance, if a person falls from the running train, he cannot be crushed by



the running train in the manner it has been found in the present case. Although as deceased belongs to same place, as such suspicion is raised that he was knocked down/run over by running train while crossing the railway track, however, recovery of train ticket from his possession soon after accident dispels any such doubt.

16. For the reasons as stated above, the judgment and order passed by the Claims Tribunal is set aside and appeal is allowed and appellant is entitled for grant of compensation and respondent-railway is directed to pay compensation of Rs. 4 Lacs along with interest @ 6 per cent per annum from the date of accident till its payment or Rs. 8 Lacs whichever is more.

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

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.11.2019
Transmission Date	NA

