

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.107 of 2013

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Sangita Devi W/O Late Shatrughan Sah R/O Vill. - Bari Nawada, P.S.
Dalsingsarai, Distt. - Samastipur Bihar.

... .. Appellant/s

Versus

Union of India through its General Manager, N.E. Railway, Gorakhpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Niraj Kumar Verma, Adv.
For the Respondent/s : Mr. Anil Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 27-06-2019

Heard the parties.

2. This miscellaneous appeal has been filed for setting aside the judgment and order dated 30.03.2012 passed by Member (Technical) Railway Claims Tribunal, Patna Bench, In claim application No. OA 000186 of 2000 by which the claim application of appellant for grant of compensation was rejected.

3. Briefly stated, the facts of the case as set out the claim application is that the husband of claimant Shatrughan Sah was travelling on 30.08.1999 from Barauni Junction to Dalsingsarai Railway Station by Train No. 401up. Barauni Samastipur passenger with a 2nd class ticket and he could not enter into the compartment due to heavy rush and was standing near the gate of compartment and he accidentally fell down from the said train near eastern side of Teghra Railway Station and died on the



spot.

4. Written statement has been filed on behalf of Railways in which they have denied the claim of claimant and have stated that the alleged incident does not come within purview of Section 123(C) of Railways Act, as such, claimant is not entitled for grant of any compensation. Deceased was not a bonafide passenger, as no ticket was recovered from him. The injury sustained by him are self inflicted injuries as enumerated under Section 124A of Railways Act. The incident is a case of run over and not fall from running train.

5. Claims Tribunal on the basis of pleadings of parties has framed four issues for its determination. Claimant in her Examination-in-Chief in form of affidavit has supported her claim case. In her cross-examination, she has stated that she did not accompany the deceased and she was in home at the time of accident. She had gone at the place of occurrence and saw the dead body. Bharat Sah has been examined as a witness, who in his examination-in-chief in form of affidavit has supported the claim case. In his cross-examination he has stated that he has no evidence to support that he was accompanying the deceased on the train. Deceased was his younger brother and there is no evidence that he was present at the place of occurrence at the



time of occurrence.

6. On the basis of Memo sent by Nand Kishore Jha, Station Master, Teghra Railway Station, Begusarai to Officer-in-Charge, Barauni Rail P.S., U.D. Case No. 21/99 was instituted on 30.08.1999 at 9:00 A.M. which has been marked as Exhibit-3 by the Tribunal. The Memo of station master informs that one unidentified man died after being run over by the train No. 401 Up. Passenger train. The inquest report which has been marked as Exhibit-4 was prepared on the same day at 10:30 hours in which also the reason of death has been found to be run over by the train. Postmortem was conducted on the same day at 4:15 PM which has been marked as Exhibit-5 in which the dead body of the deceased was found badly mutilated which also supports the case of run over. After completion of the investigation of U.D. Case, the Investigating Officer has submitted its final report, in which also he has found that deceased died due to run over by a running train.

7. The claims Tribunal after due appreciation of evidence on record has disbelieved the claim case of appellant that her husband died due to fall from running train but found it to be a case of run over by running train.

8. After re-appreciation and reconsidering the evidence



on record, this Court also comes to the same conclusion as arrived by the claims tribunal, there is no merit in the miscellaneous appeal and same is accordingly dismissed.

9. Let LCR be returned to the court concerned forthwith.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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