

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.474 of 2018

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Puja Devi, wife of Late Naresh Kumar Sah, Resident of Village- Sikergarh tola, P.S. Kahalgaon, District- Bhagalpur. Past Add- Village- Nadiyanwa Sabour, Bhagalpur (Bihar).

... .. Appellant/s

Versus

The Union Of India, Through General Manager E. Railway, Kolkata.

... .. Respondent/s

with

Miscellaneous Appeal No. 513 of 2018

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Union Of India Through The General Manager, Eastern Railway, Kolkata.

... .. Appellant/s

Versus

1. Puja Devi wife of Late Naresh Kumar Sah
2. Rahul Kumar son of Late Naresh Kumar Sah Resident of Village - Nadiyanwa, Sabour, Bhagalpur, Bihar.

... .. Respondent/s

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Appearance :

(In Miscellaneous Appeal No. 474 of 2018)

For the Appellant/s : Mr.Pravina Kumari

For the Respondent/s : Mr.Anil Kumar Sinha

(In Miscellaneous Appeal No. 513 of 2018)

For the Appellant/s : Mr.Anil Singh

For the Respondent/s : Mr.Pravina Kumari

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 27-08-2019

Heard the parties.

2. Miscellaneous Appeal 474 of 2018 has been filed by the claimant/appellant against the part of order dated 27.02.2018 passed by Railway Claims Tribunal, Patna passed in M.A. (O.A. No. 26/2003) by which claims tribunal has allowed the application of claimant/appellant for grant of compensation



but has granted interest w.e.f. 09.10.2015 i.e. registration of claim application instead of 16.09.2003 i.e. date of filing of claim application whereas miscellaneous Appeal No. 513 of 2018 has been filed on behalf of appellant Railways against the same order by which the railway Claims Tribunal has allowed the claim application filed on behalf of claimant and directed appellant Railways to pay compensation of Rs. 8 lacs with interest @ 6% p.a. from the date of registration of application i.e. 09.10.2015.

3. Claimant Puja Devi had filed an application under Section 16 of the Railways Act on 15.09.2003 alongwith an application for condonation of delay in filing the claim application stating therein that her husband Naresh Kumar Sah while travelling on 11.08.2000 from Bhagalpur to Kahalgaon by Jamalpur Hawrah Express (Train No. 3072) was killed by Escort party of G.R.P. for which a case was lodged under Section 302 of I.P.C. in Bhagalpur Police station against constable Ashok Sharma who after investigation was charge sheeted and finally convicted and sentenced to undergo life imprisonment.

4. Railways filed their written statement denying the claim that the deceased was not a bonafide passenger and he



did not die in untoward incident as such claimant was not entitled for compensation. However, the claim application was dismissed by order dated 08.10.2012 passed by the claims tribunal on ground of limitation against which claimant filed M.A. No. 15 of 2013 in Hon'ble High Court which was allowed by Hon'ble High Court by order dated 07.08.2014 and thereafter claims tribunal condoned the delay in filing claim application by order dated 09.10.2015.

5. The claim application of claimant Puja Devi was thereafter decided by the claims tribunal on merit and held that deceased Naresh Kumar Sah died in an untoward incident and as such claimant was entitled for compensation by its order dated 27.02.2018 as impugned by the Railways.

6. The claims tribunal on the basis of oral and documentary evidence as well as judgment of conviction and sentence dated 06.01.2004 passed by A.D.J. V, Bhagalpur held that deceased Naresh Kumar Sah was shot dead while travelling in train and same will come within the definition of untoward incident as such claimant is entitled for grant of compensation and directed Railways to pay the compensation amount of Rs. 8 lacs from the date of registration i.e. 09.10.2015. The judgment and order of the claims tribunal as far as same relates to finding



of the tribunal that deceased Naresh Kumar Sah died in an untoward incident and claimant is entitled for compensation requires no interference and accordingly M.A. No. 513 of 2018 filed by Railways is dismissed.

7. The claimant is aggrieved by that part of the order by which tribunal has directed to pay the interest from the date of registration of application and not from the date of filing of application. The interest is to be paid from the date of filing of application and not from the date of registration of application as such that part of the order by which tribunal has directed to pay the interest from 09.10.2015 which is the date of registration of application is set aside and respondent railway is directed to pay the interest on the compensation amount from the date of filing of claim application i.e. 16.09.2003. Accordingly M.A. No. 474 of 2018 is allowed.

8. With aforesaid observation and direction both the miscellaneous appeals are disposed of.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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