

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.214 of 2015

Union Of India through the General Manager, Eastern Railway, Kolkata

...Respondent ... Appellant/s

Versus

1. Jaya Devi, wife of Late Sitaram Paswan
2. Dilip Paswan, Son of Late Sitaram Paswan

Both residents of Village Gangapur, Police Station, Sultanganj,
District, Bhagalpur, Bihar

... ... Respondent/s

with

Miscellaneous Appeal No. 212 of 2015

Union Of India through the General Manager, Eastern Railway, Kolkata

...Respondent ... Appellant/s

... ... Appellant/s

Versus

- 1 Jaya Devi, wife of Late Sitaram Paswan
2. Dilip Paswan, Son of Late Sitaram Paswan

Both residents of Village Gangapur, Police Station, Sultanganj,
District, Bhagalpur, Bihar

... ... Respondent/s

Appearance :

(In Miscellaneous Appeal No. 214 of 2015)

For the Appellant/s : Mr. Anil Singh

For the Respondent/s : Mr. Anant Kumar 1

(In Miscellaneous Appeal No. 212 of 2015)

For the Appellant/s : Mr. Anil Singh

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 27-06-2019



I.A. No. 5849 of 2015 and I.A. No.5795 of 2015

Heard.

These interlocutory applications have been filed for condoning the delay in preferring both the appeals.

For the reasons mentioned in these interlocutory applications, this Court is satisfied that the appellants were prevented for sufficient cause from preferring these miscellaneous appeals within time.

As a result, both the interlocutory applications are allowed and the delay in filing both the appeals is condoned.

M.A. Nos.214 of 2015 and 215 of 2015:

Heard parties.

2. Miscellaneous appeal no.214 of 2015 has been filed on behalf of Union of India represented by the Railways against the judgment and order dated 1.8.2014 passed in claim application No.00045 / 2002 by which claim application of claimant respondent was allowed for payment of compensation of Rs.4 lacs with 6 % interest per annum from the date of application till its realization whereas miscellaneous appeal no. 212 of 2015 has been filed by Union of India against the order of review dated 26.02.2005 passed in review application no.28/14 by which claims Tribunal has reviewed the order dated



1.8.2014 passed in MA (OA) No.00045/2002 by which the order has been modified that 6% interest per annum on the compensation amount of rupees four lacs is payable from the date of order, i.e., 31.3.2014, till its realization.

3. Briefly stated the fact of the case is that claim application was filed by Jaya Devi, wife of Sitaram Paswan on account of death of her husband due to injuries sustained by him in an untoward incident. Husband of the claimant Sitaram Paswan on 4.4.2000 was travelling from Sultanganj to Bhagalpur by train no. 3484 down Faraka Express after purchasing a valid ticket but he fell down from the train near western cabin of Bhagalpur railway station and was seriously injured and died while being taken to medical hospital, Bhagalpur.

4. Information was received by Rail P.S. Bhagalpur and, thereafter, constable Brajnandan Ram brought Sitaram Paswan to Jawahar Lal Nehru Medical College, Bhagalpur for treatment but he was declared brought dead and same was reported to Rail P.S. upon which U.D. case no. 10/2000 was instituted in railway police station, Bhagalpur.

5. Written statement has been filed on behalf of respondent railway in which they have denied the claim of



claimant. It has been stated that neither death certificate nor postmortem report or inquest report of the deceased has been enclosed. Deceased was not a *bona fide* passenger and no ticket was recovered from him.

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

7. Claimant has not appeared before the Tribunal nor any witness has been examined on her behalf. Documentary evidence has been produced but same has not been proved in absence of any witness. Ext. 1 is FIR instituted by the informant Constable Brajnandan Ram of Rail P.S. Bhagalpur in which it has been stated that Sitaram Paswan of Sultanganj Bhagalpur was travelling from Train No.3484 down Faraka Express and fell from running train and died from injuries sustained in said accident. The case was handed over to Assistant sub-Inspector of Police for investigation and to submit report. Fardebyan of informant Brajnandan Ram was recorded by Sub-inspector, Birender Singh of railway P.S. Bhagalpur on 4.4.2000 at Jawahar Lal Nehru Medical College, Bhagalpur at 9 p.m. on its main gate. In his fardebyan the informant has stated that along with others, he was taking injured to medical hospital and as he reached the main gate he died at 8.30 p.m. He came to know



that he was going Akbarnagar from Sultanganj from train no.3484 Down Faraka Express but train did not stop at Akbarnagar and he fell down near west cabin of Bhagalpur Railway Station at about 6 p.m. in which he sustained grievous injuries. In its final report, the I.O. has recorded that inquest report and postmortem report were prepared and found that deceased died due to falling from train and postmortem report supports the claim case of claimant. However, neither inquest report nor postmortem report was filed along with claim petition.

8. Although from the records of the case, it appears that inquest report and postmortem report were enclosed along with report dated 18.11.2013 prepared by Inspector, In charge, RPF Post Bhagalpur, Eastern Railway and also in the report dated 28.11.2013 of divisional safety officer in which also it was found that deceased died after falling from the train and it was due to his own negligent and reckless act for which railway administration is not responsible.

9. Claims Tribunal has not dealt with or discussed any evidence or material which was available on record in order to conclude that claimant is entitled for grant of compensation. Claimant has to establish its case on the basis of evidences



produced before the Tribunal. It is not necessary that in order to establish claim case oral evidence is must. Claim case can be established on basis of documentary evidence alone. However, claimant has to be examined before the Tribunal in order to formally prove the documents on which claimant relies so that same is marked as Exhibit by the Tribunal. In the present case, Tribunal has not appreciated or considered any of the documentary evidence or materials which were available before the Tribunal and has come to an abrupt conclusion that claimant is entitled for grant of compensation and deceased died in an untoward incident. Even no finding was recorded by the Tribunal if the deceased was a *bona fide* passenger in absence of any journey ticket being recovered from his possession and without any evidence with respect to purchase of ticket by him.

10. For the reasons as stated above, the judgment and order passed by the Tribunal cannot be sustained and are accordingly set aside. The matter is remanded to the Tribunal for its fresh consideration and claimant shall examine herself before the Tribunal in support of her claim case and, thereafter, Tribunal shall appreciate and consider the evidences which are on record brought by claimant or by Railways in order to decide the entitlement of claimant with respect to grant of



compensation.

11. Both miscellaneous appeals are disposed of with the aforesaid observations and directions.

12. Let the L.C.R. be returned forthwith to the court concerned.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.08.2019
Transmission Date	NA

