

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.493 of 2014

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Shila Devi wife of Late Pradeep Ray, resident of village- Bishunpur Pakari,
P.S. Phulwarisharif, District- Patna (Bihar).

... .. Appellant/s

Versus

The Union Of India, through the General Manager, East Central Railway,
Hajipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anant Kumar-1, Adv.

For the Respondent/s : Dr. Chandra Shekhar Azad, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 02-07-2019

Heard the parties.

2. This miscellaneous appeal has been filed on behalf of claimant/appellant against the judgment dated 15.05.2014 passed by Railway Claims Tribunal, Patna Bench by which the claim of the appellant/claimant was rejected by the Tribunal.

3. Claimant/appellant Shila Devi, the widow of Pradeep Ray who died in a railway accident on 16.11.2005 while he was travelling from Parsa Bazar to Patna Junction on train No. 576 Dn. (Gaya-Patna Passenger) having train ticket bearing No. 40994 and 40995 dated 16.11.2005. Husband of the claimant fell down near Kurthol from the train due to heavy rush and jostling of passenger and died on the spot.

4. The deceased husband of the claimant was



accompanied by his Brother-in-Law Satish Kumar who was also travelling with him and had purchased two Railway tickets and was an eye witness of the incident and informed the Railway staff on reaching Patna Junction upon which a memo dated 16.11.2005 at 5:10 pm was issued from the Station Master, Patna Junction to Officer-in-charge, GRP, Patna Junction that an information has been received that one male person has been run over near Kurthol between Patna-Parsa Bazar and necessary action is to be taken and said information was entered in the Station Diary being Station Diary No. 605/05 (Annexure-1). However, due to ignorance Satish Kumar alongwith the family members of deceased and all went at the place of accident where deceased was found lying dead and carried dead body with them and cremated the dead body in Bansghat. However, subsequently said Satish Kumar instituted an FIR on 20.12.2005 giving rise to Patna Junction P.S. UD Case No. 105/05 dated 20.12.2005 (Annexure-2), upon which formal FIR was registered as contained in Annexure-3.

5. The enquiry of UD case was entrusted to Sub Inspector of Police, GRP, Patna Junction, who has recorded in FIR that on 06.11.2005 an information was received from Station Manager Patna, that one person has been run over near



Kurthol and for verification when he reached the place of accident he could not find any dead body, however, after institution of FIR by informant Satish Kumar, dated 20.12.2005 same was investigated by him and he submitted his enquiry report dated 02.06.2006 to the authority in which he has found the case to be true and two railway tickets were also produced by the Informant being Ticket No. 40994 and 40995 of Parsa Bazar to Patna Junction dated 16.11.2005. He recorded the statement of the co-villagers, Mukhiya and witnesses at the place of occurrence who supported the death of deceased in a train accident and further stated that due to ignorance the dead body was taken away by the Informant and his family members and cremated at Bansghat prior to the police reaching at the place of accident and submitted final enquiry report that deceased died due to falling from Train No. 576 Gaya-Patna Passenger.

6. A death certificate dated 16.11.2005 issued by Patna Municipal Corporation showing cremation at Bansghat is also on record.

7. A certificate issued by the Circle Officer, Phulwarisharif with respect to family members of deceased which constituted claimant Sheela Devi widow, Nibha Kumari



unmarried daughter 20 years, Vikash Kumar son 18 years and Akash Kumar son 16 years is also on record.

8. Written statement was filed on behalf of respondent railways denying the claim of appellant and on basis of pleading of parties four issues were framed by the Tribunal.

9. Two witnesses have been examined on behalf of claimant. Apart from oral evidences, documentary evidences were also adduced before the Tribunal. Annexure-1 is station memo dated 16.11.2005, Annexure-2 is FIR dated 20.12.2005, Annexure-3 is formal FIR of UD case No. 105/05 dated 20.12.2005, Annexure-4 is the identity card of claimant-Sheela Devi, Annexure-5 is enquiry report dated 02.06.2006 submitted by the investigating officer in UD Case No. 105 of 2005, Annexure-7 is cremation certificate dated 16.11.2005 of deceased issued by Patna Municipal Corporation.

10. The Tribunal has taken note of the fact that as per claim petition, deceased was travelling on 10.11.2005 whereas the date of ticket has been mentioned as 16.11.2005. According to the appellant/claimant it was a typographical error and on remaining part of the claim petition date of journey and date of ticket has been stated to be 16.11.2005 and on such flimsy ground the claim of the applicant should not have been rejected.



The evidence of Satish Kumar, witness No. 2 has been rejected by the Tribunal only on the ground that he is relative of deceased and claimant.

11. LCR was called for by this Court and after perusing the LCR, this Court finds that the tribunal has rejected the claim of appellant on hyper technical ground. Claim cases are not adversary litigation and the Tribunal has to come to the conclusion on the basis of material available before it whether the claim is genuine and deceased was a bonafide passenger and he died in an untoward incident. In their written statement, the respondent railways have stated that deceased was not a bonafide passenger and he died somewhere else and thereafter he was kept on railway track only to claim compensation from the railways.

12. Claimant has been examined as AW-1. In her deposition cum affidavit she supported claim. She has been cross-examined by the respondent but there is nothing to disbelieve her claim case and her evidence appears to be reliable and trustworthy. AW-2 who is the brother in law of the deceased and also the Informant has supported the claim case in his deposition cum affidavit and he has also been cross examined by the respondent railways but there is nothing in his cross-



examination to disbelieve him and his evidence is trustworthy and reliable. He has accepted that no post mortem was performed upon the body of deceased and due to ignorance his dead body was cremated.

13. Annexure-1 is the copy of station memo dated 16.11.2005 in which Officer-in-Charge of G.R.P., Patna has informed that he has received information at 5:10 hours that one male person was run over by some train between Patna and Parsa Bazar. Annexure-2 is the FIR instituted by witness No. 2 brother in law of deceased dated 20.12.2005 which is addressed to the Officer-in-Charge of Police, Patna Junction in which he has stated that on 16.11.2005 deceased had boarded train No. 576 Dn. from Parsa Bazar to Patna Junction and he had taken his ticket and due to heavy rush, jostling and jerk of the train he fell down and he informed the Railway staff of said accident and thereafter went to the place of accident with other family members and carried the dead body to house alongwith family members and cremated in the Bansghat, Patna.

14. On the basis of said FIR dated 20.12.2005 a U.D. case was registered being G.R.P. Case No. 105/2005 dated 20.12.2005 which was investigated by the police and in its report submitted on 02.06.2006 it has been found that



information was received on 16.11.2005 from the Station Master, Patna that one person has been run over by the train but the FIR was instituted on 20.12.2005 and thereafter investigation was carried out and during investigation the Investigating Officer has also reported that the informant purchased two tickets from Parsa Bazar to Patna which were dated 16.11.2005 which was purchased by him and were produced before the I.O. and on the basis of witnesses examined during investigation, he found that deceased was travelling from Parsa Bazar to Patna and in course of his journey due to heavy rush and jostling he fell down from the train and died and thereafter submitted his report to the Sub Divisional Magistrate.

15. The entire case diary showing investigation conducted by the I.O. is also on the record in which the I.O. after conclusion of his enquiry found that deceased died due to fall from running train and same has nowhere been contradicted either by the railway, in their written statement or during the cross examination of the witnesses examined on behalf of claimant, as such the order passed by the Railways Claim Tribunal is based upon non consideration of evidence on record and as such not sustainable and is accordingly, set aside and the claim petition filed by the claimant/appellant is allowed and the



respondent-Railways are directed to pay the claim amount of Rs. 4 lacs alongwith interest of 9% per annum from the date of filing of application to the date of payment within three months from the date of receipt/production of a copy of this order passed by this Court.

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

(S. Kumar, J)

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

