

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No. 586 of 2014

Union of India through General Manager, East Central Railway, Hajipur

... .. Appellant/s

Versus

Manju Devi, Wife of Pokhan Prasad R/o resident of South Park Road, Near
Ice Cream Road, P.S. Gandhi Maidan, District Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Siddhartha Prasad, Adv. Mr. Sunit Kumar, Adv.
For the Respondent/s	:	Mr. Pankaj Kumar, adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 01-07-2019

Heard the parties.

This miscellaneous appeal has been filed on behalf of Union of Indian represented by Railways for setting aside the judgment and order dated 21.05.2014 passed by Member (Technical) Railway Claims Tribunal Patna Bench, Patna passed in Claim Appellation No. OA00425/2002 by which learned Claims Tribunal has granted compensation of Rs. 4,00000/- (four lacs) to the applicant/respondent.

Claim application was filed by Manju Devi mother of deceased Ashish Kumar stating therein that his son Ashish Kumar after purchasing 2nd class ticket bearing No. 50722 boarded train No. 595 Up (Patna-Gaya Passenger) at Patna for going to Makhdumpur on 28.05.2002 and in course of journey



he accidentally fell down near Nima Halt and got seriously injured and was brought to Nadwan for treatment however he died in course of treatment.

Appellant/ railways filed their written statement denying the claim of claimant/respondent stating therein that son of claimant did not die in an untoward incident but died due to his own negligent act for which railways are not responsible. Deceased was not a bonafide passenger.

On the basis of pleading of parties claims tribunal framed four issues for its determination.

In support of her claim case two witnesses were examined on behalf of applicant. Applicant Manju Devi was examined as witness no.1 and in her examination-in-chief in form of affidavit she supported her claim case. She was cross-examined by the other side. Munna Prasad was examined on behalf of claimant as witness no.2 who in his examination-in-chief in form of affidavit supported the claim case and he was also cross-examined. However, both of them were not eye-witnesses. In support of her claim case nine documents were produced by the claimant which were marked as Exhibit-1 to Exhibit- 9 by the tribunal. Tribunal has held that as per F.I.R. (Exhibit-4) and inquest report (Exhibit-5) deceased Ashish



Kumar received serious injuries due to fall from train and died in course of treatment. Postmortem report is Exhibit-10. The tribunal has held that deceased fell down from the train and got seriously injured and died and as per Section 123 (C) Railways Act, the incident comes within the definition of untoward incident and as such claimants are entitled for compensation. Although, train ticket was not recovered from the possession of deceased and same was misplaced after accident however since there is evidence that deceased had purchased a ticket before the boarding the train and he was travelling on the train it will be presumed that he had a valid ticket with him and was a bonafide passenger unless contrary is proved.

After hearing the counsel for the appellant/ railways and claimant/respondent, this court is not inclined to interfere in the judgment and order passed by the Railways Claims Tribunal and accordingly the present appeal is dismissed.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

