

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.631 of 2014

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Sabita Kumari, D/o late Jagarnath Bhagat @ Oraoo, resident of Hirhi Jobla
Tola, Lohardaga, P.S. Lohardaga, District- Lohardaga (Jharkhand)

Applicant in Tribunal 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, Advocate

For the Respondent/s : Mr. Ashok Kumar Keshri, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 29-07-2019

Heard the parties.

This miscellaneous appeal under Section 23 of Railway Claims Tribunal Act, 1987 has been filed by claimant/appellant against the judgment and order dated 7.3.2014 passed in Claim Case No. OA 00284 / 2003 by which learned Member (Tribunal) has dismissed the claim application of claimant/appellant for grant of compensation of Rs.4,00,000/-.

Claimant/appellant who is the sister of deceased filed a claim application for grant of compensation of Rs.4,00,000/- on account of death of her brother in an untoward incident on 12.7.2003. It has been stated that on 12.7.2003 the brother of claimant/appellant was travelling from Gaya junction to Turi railway station and had boarded train no.3348Up (Palamu



Express) with valid train ticket but due to heavy rush and jostling of the passengers in the railway compartment, he fell down from running train near Karimganj Mohalla and died on the spot.

Respondent - railways denied the claim of claimant stating that said train arrives at Gaya station at 10.30 p.m. and departs at 11.05 p.m. as such, there was sufficient time for the passengers to comfortably board the train. Falling of deceased near Gumti No.2, Gaya station shows his own negligence as such, claimant/appellant is not entitled for any compensation. Deceased was not a bona fide passenger as no ticket was recovered from his possession.

Claims tribunal on the basis of pleading of the parties framed four issues for its determination.

Claimant/appellant has examined herself as witness no.1 in which she has admitted that neither she is an eye-witness of the occurrence nor she had accompanied her brother on the train. She got knowledge of the accident after 2-3 days and identified her brother from his clothes and photographs.

Inquest report was prepared as unidentified dead body and in postmortem also, the dead body has been stated to be unidentified and police cremated the dead body as



unidentified as none of the family members approached police station to claim the dead body. However, claimant/appellant while searching her elder brother, reached railway police station on 14.7.03 and from photograph and clothes, she identified the deceased as her brother. In support of her claim case, documentary evidence were produced which were marked as Exhibits by the claims tribunal. Ext.1 is the station memo dated 13.7.2003. Ext.2 is the F.I.R. Ext.3 is the inquest report. Ext. 4 is the postmortem report. Ext.5 is the final report. Ext.6 is the family member list. Ext.7 is the voter I card of claimant and Ext. 10 is the identity card of deceased.

Memo dated 13.7.2003 at 9:45 (ext.1) was issued by the Dy. Station Manager, Gaya Railway Station to the officer-in-charge, Railway P.S. Gaya in which it was stated that information has been received that one unknown person has fallen down from train No.3348 Up and was crushed by running train upon which, UD case no.41/2003 was registered by the officer-in-charge, Gaya Rail P.S. and case was handed over to Assistant Sub-Inspector Umesh Kumar Singh for investigation. Inquest report (ext.3) was prepared by the I.O. at 12 O'clock on 13.07.03 in which also, it has been recorded that deceased died by falling from train No.3348 Up, however, the



dead body is stated to be of unknown. Postmortem was done on 13.07.2003 between 2 p.m. to 4 p.m. and thereafter postmortem report (ext.4) was prepared in which the dead body has been stated to be of unknown and cause of death is due to shock and haemorrhage and injury was found to be caused by hard object. After investigation, the police submitted the final report in which also police found that deceased died from falling from running train no.3348 Up.

The tribunal after hearing the parties disbelieved the claim of claimant/appellant and rejected her claim application.

It is admitted fact that there is no eye-witness of the occurrence and claim petition is to be decided on the basis of documentary evidence and attending circumstances. Deceased Sandeep Bhagat and claimant/appellant belonged to village Hirhizobla Toli, Lohardagga and it is stated that deceased Sandeep Bhagat had gone to Gaya to enquire about pension papers of his father and was returning from the train after boarding at Gaya station for Turi railway station but fell down from running train and died. Deceased was not a local as such, it cannot be a case of run over. From the station memo, it is apparent that the Dy. Station master had sent a memo to railway P.S. informing that some unknown person has fallen from train



No.3348 Up Palamu Express near Karimganj and died upon which UD case was registered by the police on 13.7.2003 and on same day, inquest report was prepared and postmortem upon dead body was conducted in which the identity of the deceased was not known. However, it is stated that on 14.7.2003 claimant/appellant and other family members reached Gaya Railway P.S. and from the clothes and photographs identified the deceased but by that time, the dead body was already cremated by the police and IO thereafter on completion of investigation, submitted final report on 14.7.2003, however, suspicion has been raised by the respondents-railways with respect to final report as although the final report was submitted on 14.7.2003, however, in the report, it has been mentioned that on 15.7.2003 family members came to railway police station and from photographs and clothes identified the deceased and for this reason, the claims tribunal has disbelieved the claim of claimant/appellant although from the station memo, inquest report, postmortem report and final report, there is consistent entry in the documents that deceased died due to falling from train No.3348 Up and since he was not a local person, as such, any case of run-over is ruled out. From the dead body no ticket was recovered, as such, the deceased was not a bona fide



passenger. However, chances of ticket being lost after accidental trauma is common and only on said ground, the compensation cannot be denied. Since during investigation, the identity of the deceased was unknown as such there cannot be any allegation that claimant/appellant or any of her family members influenced the investigation in which it was found that deceased died due to fall from running train no.3348 Up. The finding recorded by the IO in his final report dated 14.7.2003 that claimant and other family members came to police station on 15.7.2003 can only be a slip of pen and there cannot be any explanation.

As far as non-recovery of train ticket from the possession of deceased is concerned, railways have issued a circular dated 11.11.1997 vide No.96/T.C.-III-85-87 addressed to the General Managers (Claims) in which it has been directed that compensation should be paid irrespective of bona fide authority to travel has been produced or not. Relevant extract of said circular is quoted below:-

"In the event of a train accident resulting in the death of a passenger travelling by the train, compensation should be paid irrespective of whether bonafide authority to travel has been produced or not."



After hearing the parties and considering the materials available on record and attending circumstances, this Court is of the view that deceased died from falling from the train no.3348 Up while travelling from Gaya to Turi in an untoward incident and any other explanation or reasons for death of deceased is ruled out and as such, claimant is entitled for grant of compensation of Rs.4,00,000/- with interest @ 6% from the date of application till its payment.

In the result, the appeal succeeds and judgment and order passed by the claims Tribunal is set aside. Railways are directed to pay the compensation amount to the claimant/appellant within three months from the date of receipt/production of copy of order passed by this Court.

Let the LCR be returned forthwith to the court concerned.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2019
Transmission Date	NA

