

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.410 of 2014

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Fulvati Devi, W/o Late Sheojanam Singh Yadav, Resident of Village
Gangadhar Dehri, P.O. Hetampur, P.S. Tiyaar, District Bhojpur Bihar.

... .. Appellant/s

Versus

The Union of India through the General Manager, Northern Railway, Baroda
House, New Delhi

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Krishna Mohan Murari, Advocate
For the Respondent	:	Mr. Anil Kumar Sinha, Advocate
		Ms. Sushmita Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 12-03-2019

Heard learned counsel for the parties.

2. This appeal has been preferred, under Section 23 of the Railway Claims Tribunal Act, 1987, against the dismissal of prayer for grant of compensation by order dated 24.06.2014 passed in Case No. OA 00464 of 2002 by the Railway Claims Tribunal, Patna Bench.

3. The case and claim of the appellant before the Tribunal was that her husband Sheojanam Singh Yadav was travelling from Bihiya Railway Station to Allahabad Junction by Toofan Express Train having proper and valid Train Journey Ticket bearing No. 14372. When the train was passing from Babhani Hethar Railway Bridge near Achdih Railway Station, Sheojanam Singh Yadav fell down and sustained injury as a result



whereof he died. A railway Gangman, Shipahi Lal reported the accident to G.R.P.S., Manda that an unknown passenger has accidentally fell down from a running train whose dead body is lying beneath Babhani Hethar Railway Bridge. Thereafter, the police reached there.

4. The inquest report available on the record reveals that this was a case of untoward incident of railway. The opinion of the Panches were also recorded and they were also of the view that this was a case of accidental death by fall from the running train. The postmortem report available with the record discloses that the victim sustained fracture of frontal and both parietal bone. The membrane and brain materials were lacerated and hemorrhage was present. There was injury on both legs and cause of death was shock and hemorrhage as a result of antemortem injuries. The claimant had deposed before the Tribunal and she had produced along with her statement on oath identity proof issued by the Election Commission of India. In her statement on oath, she narrated the untoward incident. However, in the cross-examination, she stated that she had not witnessed the occurrence nor she is aware that where the postmortem examination was performed. The claimant is an illiterate lady which would be evident from her L.T.I. at the relevant places in the claim petition



as well as in her deposition on oath. The claimant disclosed about the dependents of the deceased which includes three minor children.

5. The Tribunal framed four issues for adjudication.

- (i) Whether the deceased was victim of untowards incident covered under Section 123(C)(2) of the Railways Act, 1989?
- (ii) Whether the deceased was a bona fide passenger on 3007 Up (Toofan Express) on 08.02.2001?
- (iii) Whether the claim is valid one?
- (iv) Whether the claimant is entitled for the claim amount?

6. The Tribunal decided issue no. 3 that the claim petition is valid one. The Tribunal jointly decided issue no. 1, 2 and 4 and dismissed the claim petition for following reasons:

- (i) The claimant who is sole witness is not an eye witness of the occurrence.
- (ii) The documents produced by her does not support her relationship with the deceased nor there is any other material to substantiate that the railway ticket produced was of the deceased.

7. Learned counsel for the appellant submits that the Tribunal has committed error of record in appreciating the material on the record. The claimant had produced her voter identity card



along with her statement filed on oath. She had produced the copy of the inquiry report of the incident. The inquest report, the postmortem report and opinion recorded thereon reveals that the victim died of injuries caused after fall from the running train. The deceased was husband of the applicant and no one came to dispute the aforesaid fact.

8. The law is well settled that while conducting an inquiry for deciding compensation payable, the claimant cannot be saddled with burden of proof beyond all reasonable doubts. Filing affidavit making disclosure of the occurrence would suffice to discharge the burden. In this case, railway ticket was produced. The person who first noticed the dead body was a railway man and not a relative of the claimant. He recorded his first opinion in the inquest report that the case was of death by fall from a train. The same was opinion of the Panches available on the lower court records. Therefore, in my view, the Tribunal has *prima facie* erred in appreciating the material on the record and placing onerous burden on the applicant to prove her claim beyond reasonable doubt.

9. Learned counsel for the railway submits that in para 9 and 10 of the impugned judgment, there is mention that the



appellant-claimant did not produce any reliable document to sustain her claim.

10. As I have already noticed above, the Tribunal has erred in appreciating the available material (documentary and oral evidence) on the record, hence, the impugned order is set aside and it is ordered that the respondent-railway shall pay Rs.4,00,000/- (rupees four lacs) which was statutory compensation amount prevailing on the date of accident along with 9% interest from the date of accident till payment. The interest had been awarded consistent with the direction of the Hon'ble Supreme Court in **Union of India V. Rina Devi** reported in **Accidents Claims Journal 2018 (III) 1441**.

11. Accordingly, this appeal stands allowed.

12. The payment must be made within two months from the date of receipt/production of a copy of this order, failing which 12% interest would be payable from the date of failure till date of realization.

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
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