

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.624 of 2014

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Virendra Lal @ Birendra Lal Son of Late Bhuneshwar Lal Resident of Village
- Bichiyaw, P.S.-Sandesh Dist.-Bhojpur Ara

... .. 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 : Mr. Ashok Kumar Keshari, Adv & Ms. Meena
Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
CAV JUDGMENT

Date : 20-08-2019

Heard learned counsel for the parties.

This miscellaneous appeal has been filed by Claimant-Appellant against the judgment and order dated 27.06.2014 passed in Claim Application No. OA 00120 of 2005 passed by Member (Technical), Railways Claims Tribunal, Patna Bench, Patna, by which the claim application of the Claimant-Appellant has been dismissed.

Briefly stated, the claim of Claimant-Appellant as set



out in his claim application is that on 06.12.2004 his father Bhuneshwar Lal purchased a train ticket from Buxar Railway Station for going to Ara and thereafter he boarded Train No. 560 Dn. (Buxar-Mokama Passenger), standing on Platform No. 3, but due to heavy rush and jostling of passengers and sudden jerk of the train, he lost his balance and fell down between the tracks of moving train and died.

Deputy Station Manager, Buxar Railway Station reported the matter to GRP, Buxar, vide his memo dated 06.12.2004 (Exhibit A/2), on the basis of which FIR was registered as Buxar Rail P.S. U.D. Case No. 43 of 2004 dated 06.12.2004 (Exhibit-A/3).

The Investigating Officer of Rail Police Station, thereafter prepared inquest report of dead body of an unknown person (Exhibit-A/4) and sent the dead body at Sadar Hospital, Buxar, where post mortem was conducted over the dead body of unknown person (Exhibit-A/5). After completion of inquiry the enquiry officer submitted Final report which is (Exhibit-A/6). The Claimant-Appellant claims that his father died in an untoward incident and as such he is entitled for grant of compensation under Section 125 of Railway Compensation Act, 1989.



The written statement was filed by the respondent-Railways in which they denied the claim of Claimant-Appellant and stated that it was not an untoward incident but the deceased was run over by the train as such Claimant-Appellant is not entitled for any compensation. No ticket was recovered from the possession of deceased as such he was not a bonafide passenger.

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

In support of his claim case Claimant-Appellant in examination-in-chief in form of affidavit has supported the contents of affidavit.

In his cross-examination he stated that he got information about the incident from his cousin. Police gave information to his uncle and his cousin went to the place of incident. His cousin reached first at the place of incident. He stated that he cannot say how the ticket was lost. Exhibit-A/2 is the station memo issued by the Deputy Station Manager, Buxar, dated 06.12.2004 addressed to Officer-in-Charge of Rail, Police Station, by which it was informed that at the Eastern Side of Platform No. 3 one old person had died due to run over by some train. He should take immediate steps to clear the railway track and on the basis of said station memo Buxar Rail P.S. U.D. Case



No. 43 of 2004 dated 06.12.2004 was registered and case was handed over to ASI S.P. Singh, for investigation.

FIR was registered as Buxar Rail P.S. U.D. Case No. 43 of 2004 on 06.12.2004 in which it was recorded that unknown person has died due to run over by the train, which has been marked as Exhibit-A/3 before the Tribunal. Inquest report was prepared on 06.12.2004 at 9:00 am where deceased person has been described as unknown and the place of incident has been shown to be on the railway track of Platform No. 3 of Buxar Railway station 100 Gaz East of RPF Post between Pole No. 660/41 and 660/39. On 06.12.2004 at 9:00 am it was found that due to run over by some train, body of unknown male has been crushed into pieces and cause of death has been stated to be run over by some train.

Post mortem over the dead body of the deceased was performed on 06.12.2004 where the body was brought in Sadar Hospital, Buxar, at 12:30 pm which has been described as dead body of an unknown person aged about 70 years and on examination of the body it has been found that all parts of the body to be separated, crushed and some parts were in pieces. Internal examination opined crushed whole body. In some part of the body Rigor Mortis was present. Cause of death has been



attributed to Shock & Haemorrhage caused by hard and blunt substance. Time elapsed within 24 hours. Post mortem report has been marked as Exhibit-A/5 before the Tribunal. The investigating officer submitted his final report on 07.12.2004 in which statement of one of the eye witness Munna Kumar was recorded who stated that the deceased came running from Platform No. 2 and tried to board the running train but he failed to firmly catch the handle of the Train on account of which his hand slipped and he fell between the track of Platform No. 3 and was crushed into pieces by the moving train. It has been finally opined that deceased died due to run over by some train.

A paper cutting of newspaper has been enclosed as Annexure-6, in which it has been published that one Bhuneshwar Ram at Platform No. 3 died while boarding Train No. 560 Dn. (Buxar-Mokama Passenger), when he accidentally fell on the railway track and was crushed by the moving train. The Claimant-Appellant is not an eye witness. No witness has been produced on behalf of Claimant-Appellant who stated that the deceased had purchased rail ticket from Buxar Railway Station and as such it is not established that the deceased was a bonafide passenger as no ticket was recovered from his possession. No oral evidence has been adduced in support of the



claim case that the deceased boarded the train after purchasing valid ticket and accidentally fell down from the train and slipped between the railway track and was crushed by moving train. In the inquest report the dead body has been shown of an unknown person, which was found on the Eastern Side of Platform No. 3 100 Gaj East of RPF post on 06.12.2004 at 9:00 am in which it has been opined that the body was crushed into pieces and person died due to run over by some train. The post mortem report also does not support the case of untoward incident rather supports the case of run over by the train. Rigor Mortis has also been found over the dead body and time elapsed since death is within 24 hours. All parts of the body was found separated, crushed into pieces. It cannot be a case when a person falls from the running train.

From the evidence on record and attending circumstances the case of the Claimant-Appellant that his father was bonafide passenger and died after falling from running train is not established rather appears to be a case of run over and the Tribunal has also reached on the same conclusion, as such this Court is not inclined to interfere into the judgment and order passed by the Tribunal.

Accordingly, this miscellaneous appeal is dismissed.



LCR of this case be returned to the court concerned
forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	28.06.2019
Uploading Date	26.10.2019
Transmission Date	NA

