

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.303 of 2015

Smt. Saro Devi, W/o Late Dwarika Singh, resident of village - Telbhadro, P.S.
Akabarpur, Distt. - Nawada Appellant

Versus

The Union of India Through the General Manager East Central Railway,
Hazipur Respondent

Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Adv.

For the Respondent/s : Mr. Bijoy Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 20-08-2019

Heard the parties.

2. This miscellaneous appeal has been filed for setting aside the judgment and order dated 11.08.2015 passed in Claim Application No. OA00197 of 2013 (Comp. No. 303 of 2013) passed by the learned Member (Judicial) of Railway Claims Tribunal, Patna Bench, Patna by which the tribunal has dismissed the claim application filed on behalf of claimant/appellant for grant of compensation of Rs. 4 lacs (four lacs).

3. Claimant who is widow has filed claim application for grant of compensation stating therein that on 23.01.2013 her husband Dwarika Singh along with his son Sachchidanand Paswan came to Nawada Railway station for going to Gaya for his treatment. Sachidanand purchased a valid ticket and handed over to his father prior to boarding



train No. 13023 Up (Howrah-Gaya) Express and while boarding the train, all of a sudden due to sudden jerk, he could not maintain the balance and accidentally fell down from the moving train and slipped between the railway tracks and his both of legs were crushed by the moving train.

4. It has been further stated that station master issued a memo to the G.R.P., Nawada who picked the injured from the place of accident and took him to Sadar Hospital, Nawada where he was declared brought dead. F.I.R. was instituted by the rail police on the statement made by son of claimant and deceased which was registered as U.D. Case No. 02 of 2013.

5. Inquest report was prepared by the police and thereafter sent to the postmortem which was conducted at Sadar Hospital, Nawada. From the inquest report, it appears that train ticket was recovered from the clothes of deceased. After making inquiry and recording the statement of eye-witnesses enquiry officer submitted his final report with a finding that due to accidental fall from train deceased died.

6. A written statement has been filed on behalf of respondent/railway in which they have denied the claim of claimant.



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

8. Claimant has been examined as witness no.1 and in her examination-in-chief in form of affidavit she has supported her case as disclosed in her claim application. In her cross-examination, she has admitted that she has not seen the incident and came to know about it after information given to her on phone at 9:00 A.M. She did not go anywhere after receiving said information. The dead body was brought in the house same day at about 4-5 P.M. and police had not made any inquiry from her.

9. Witness no.2 is the son of claimant and deceased who in his examination-in-chief in form of affidavit has supported the claim case of claimant. In his cross-examination, he has stated that on the day of accident, he was not with his father. He heard the hulla that one person has been run-over by the running train. He has not seen the incident himself. It is not true that deceased was run-over by the train while crossing the railway line. He was taken to hospital from railway Track where he was treated by the Doctor. He was alive at that time and subsequently he was informed that he has died thereafter police arrived and F.I.R.



was registered and postmortem was performed. Deceased was brought to the Sadar hospital between 11 to 12. He had gone to Railway station to see him at about 10:00 A.M.

10. Apart from oral evidence, documentary evidence has also been produced by the claimant in support of her claim case which has been marked as Exhibits by the Tribunal.

11. Exhibit-1 is the station memo dated 23.01.2013 issued at 10:35 A.M. in which the station master has informed the officer-in-charge of railway police station, Nawada that he has received information from Ganesh Prasad, Porter that one person has fallen down while boarding 13013 Up Express and his both of legs got amputated who is about 55 years and asked to take an appropriate action.

12. Exhibits-2 is the challan of dead body dated 23.01.2013 prepared at about 11:10 A.M. addressed to officer-in charge of railway P.S. Nawada in which it has been informed that dead body from railway station has been brought at Sadar Hospital, Nawada and to reach the hospital immediately.

13. Exhibit-3 is the fardbeyan of Sachidanand Paswan son of claimant and deceased recorded on



23.01.2013 at 12-17 P.M. in Sadar Hospital, Nawada upon which U.D. Case No. 02 of 2013 was registered and the enquiry was handed over to Brijnandan Singh, A.S.I. of Railway Police Station.

14. Exhibit-4 is the inquest report prepared by said A.S.I. Brijnandan Singh in Sadar Hospital, Nawada in which it has been recorded that from clothes of deceased railway ticket no. 6987/350 was recovered and from witnesses examined, he came to know that he died in a railway accident by falling down from train.

15. Exhibit-5 is the photocopy of railway ticket which was recovered from clothes of deceased by the Assistant Sub-Inspector of police while preparing the inquest report. Exhibit-6 is the F.I.R. registered on the basis of fardbeyan of Sachidanand Paswan recorded by the railway police in the Nawada Sadar Hospital and FIR was registered on 23.01.2013.

16. Exhibit-7 is the final report submitted by the Assistant Sub-Inspector of Police after completing his inquiry in which also he found that deceased died while trying to enter the train and accidentally slipped down and fell between the railway track and his both of the legs were



crushed by the running train. Exhibit-8 is the postmortem report in which the nature of injury also corroborates with the claim of the claimant as cause of death has been attributed to injuries sustained by heavy and hard blunt substance.

17. The claims tribunal has rejected the claim case on the ground that informant who claims to be an eye-witness is not believable. There is no eye-witness of the alleged untoward incident. Even assuming that Sachidanand Paswan son of deceased was not an eye-witness, whether the whole claim case can be disbelieved on said ground if on the basis of other documentary evidences and attending circumstances the claim case is probable. There are sufficient documentary evidence on record and analysis and appreciation of which it can be safely inferred that the deceased died in an untoward incident.

18. After going through the oral as well as documentary evidence and attending circumstances and sequence of events, this court is of the opinion that the claimant has been able to establish that the deceased died in an untoward incident while boarding the train and accidentally fell down and slipped down between the railway tracks and was crushed by the moving train and the incident



does not come within the exceptions as carved out under Section 124 A of the Railway Act, as such, he is entitled for grant of compensation of Rs. 4 lacs (four lacs) along with interest @ 6 % from the date of accident till its payment.

19. This miscellaneous appeal is allowed.

20. Let the L.C.R be immediately returned to the court below.

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2019
Transmission Date	NA

(S. Kumar, J)

