

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.368 of 2015**

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Smt. Kiran Devi W/O Late Abadh Yadav Resident of Village-  
Ramchandarpur, P.S- Ekangarsay, District- Nalanda.

... .. Appellant/s

Versus

The Union Of India

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Alok Kumar @ Alok Kr Shahi, Adv  
For the Respondent/s : Mr. Bijoy Kumar Sinha, Adv

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 19-11-2019**

Heard learned counsel for the parties.

This miscellaneous appeal has been filed for setting aside the judgment dated 17.06.2015 passed by Member (Technical and Judicial), Railway Claims Tribunal, Patna Bench, Patna in Claim Application No. OA 00111 of 2009 (Comp. No. 497 of 2009), by which the claim application filed on behalf of claimant-appellant was dismissed.

Claimant-appellant is the widow of the deceased who in her claim application stated that on 16.04.2009 after purchasing a valid second class ticket of Train No. 3007 (Toofan Express) from Rajendra Railway Station to New Delhi, the deceased boarded the Train No. 3007 (Toofan Express) and while in his way to Delhi, he accidentally fell from the running train between Ahrora Road Railway Station and Balar Hat as a



result of which he sustained grievous injuries and died on the spot.

Authorities of Railways department in their written statement have denied the claim of Claimant. In the written statement, authorities of Railway have admitted that Station Manger, Ahrora Road Railway Station, gave memo to Mirzapur police stating therein that one dead body is lying between Pole No. 688/26 and 688/28 on Up and Down Line and on the basis of such memo police instituted U.D. Case No. 174 of 2009. It has been further stated in their written statement that occurrence took place due to negligent and careless act of the deceased, as such he is not entitled for any compensation under Section 124A of the Railway Act.

On the basis of rival pleadings of the parties, Tribunal has framed three issues for its determination.

Claimant was examined as Witness No. 1 and in her examination-in-chief she supported her case as disclosed in claim petition that after purchasing a valid train ticket her husband boarded Train No. 3007 at Rajendra Nagar Railway Terminal Station for New Delhi and while travelling on said train to New Delhi, he accidentally fell down from the running train and died on the spot. GRP, Mirzapur, informed her about



the incident and dead body was received by the villagers and family members after post mortem and thereafter same was cremated.

The incident was reported by Trolleyman Ram Chandra of Ahrora Road Railway Station upon which U.D. Case No. 174 of 2009 was instituted in Narainpur Rail PS on 17.04.2009. Police after investigation submitted its final report in which it was stated that deceased died due to fall from running train. She also proved the documents which were produced before the Tribunal, which is memo issued by the Station Manager of Ahrora Railway Station, Inquest report, post mortem report, final report, railway ticket, which was recovered from the possession of deceased, list of family members, identity card of claimant and identity card of deceased.

In her cross-examination she stated that she was not accompanying the deceased. She came to know about the incident after Daroga informed her on phone. She did not visit the place of occurrence. The dead body was received by her family members. Exhibit-A/1 is memo issued by D.K Singh, Station Superintendent on 17.04.2009 addressed to the Officer-in-charge of Mirzapur Police Station in which he has informed that he has received information that one dead body is lying in



between UP and Down railway track between Ahrora Road Railway Station and Balar Hat. On the basis of Station memo which was issued by the Station Superintendent upon which U.D. case was instituted on 17.04.2009 at 9:30 am.

Exhibit-A/3 is report submitted by the I.O. to the Station Superintendent of Mirzapur Railway Station with respect to deceased Abadh Yadav in which he stated that on 17.04.2009 Trolleyman Ram chander of Ahrora Road Railway Station has informed that a dead body has been recovered lying between the track and on said information he reached the place of occurrence and in presence of witnesses inquest report was prepared. From the belongings of deceased identity card and rail ticket was recovered and from diary mobile number was known by which dead body was identified and thereafter inquest report was prepared on 17.04.2009 at 11:30 am in which it has been stated that deceased died due to fall from train. I.O. has further reported that one election identity card was recovered from the possession of the deceased from which he was identified as Abadh Yadav of Nalanda district and also a railway ticket was recovered which was from Rajendra Nagar Railway Terminal to New Delhi dated 16.04.2009.

All the belongings of deceased was sealed in presence



of witnesses. After preparing the inquest report the body was sent for post mortem which was conducted in the hospital of Mirzapur in which cause of death has been stated to be shock and haemorrhage due to injuries sustained by the deceased. Post mortem was conducted on the dead body on 17.04.2009 and injuries are stated to be crushed injury on frontal bone, and multiple abrasion and fracture.

From the documentary evidence as produced before the Tribunal and attending circumstances coupled with the fact that from the dead body of the deceased his identity card, railway ticket and diary was recovered which lead to his identification and from the post mortem report also as well as inquest report, irresistible conclusion which can be drawn is that deceased died due to falling from train and there cannot be any other explanation of the dead body being found between the Railway Track ahead of Ahrora Railway Station. The inquest report, post mortem report also supports the death of deceased due to falling from running train. The case of the claimant has only been disbelieved by the Tribunal that the documents produced were not certified documents. Documents produced were public documents and certified and attested by the concerned advocate and its authenticity and genuinity cannot be denied as same are



public document, as such the claim of the applicant could not have been rejected on such trivial and flimsy ground.

The Railways in their written statement have accepted that deceased died from running train due to his own negligent act as such dependants are not entitled for compensation. Death due to negligent /criminal act is to be established by Railways by adducing evidence before the Claims Tribunal and same cannot be assumed or presumed. There is no eye witness of occurrence and compensation is to be paid on strict liability.

After hearing learned counsel for the parties and considering the materials available on record, this court is of the view that the claimant has been able to establish that her husband died while falling from running train which comes within the definition of untoward incident and the case does not come under the exception of Section 124A of the Railway Act.

Accordingly, judgment dated 17.06.2015 passed by Member (Technical and Judicial), Railway Claims Tribunal, Patna Bench, Patna, is set aside and respondent-Railways is directed to pay the compensation amount with interest @ 6 per cent per annum from the date of accident till its payment in terms of judgment passed by Hon'ble Apex Court in the case of ***Union of India vs. Rena Devi*** since reported in (2019) 3 SCC



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The miscellaneous appeal is allowed.

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

**(S. Kumar, J)**

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