

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.83 of 2017

Union Of India Through The General Manager, North East Frontier Railway,
Maligaon, Guwahai

... .. Appellant/s

Versus

1. Smt. Lajya Devi Wife of Nand Lal Mandal
2. Jaymanti Kumari, Daughter of Late Mandal
3. Satish Kumar , Son of Late Nand Lal Mandal All resident of Village-Pakri,
Police Station-Palasi, District-Araria Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anil Singh,Advocate

For the Respondent/s : Mr.Alok Kumar Jha,Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 13-12-2022

Heard Mr. Alok Kumar Jha, learned counsel
for the Railways.

2. The present appeal is directed against the
order dated 18.11.2016 passed by the Railways Claim Tribunal,
Patna Bench, Patna in OA 00185 of 2013 by which the Railways
were directed to pay a compensation of Rs. 4,00,000/- to the
dependents of the deceased with 9% interest within a period of
two months failing which additional 3% is paid by them.



3. The matrix of the fact giving rise to the present appeal is/are as follows:-

4. The husband of the appellant while traveling from Thakurganj to Kishanganj due to rush in the train fell down and sustained serious injuries which led to his death.

5. The wife, Lajya Devi thereafter move the Tribunal in OA No. 00185 of 2013 for compensation with interest.

6. The Railways appeared and filed reply stating that:

(i) the deceased was not a valid passenger;

(ii) as such, it does not come within Section 123(C) of the Railways Act, 1989 (henceforth for short 'the Act');

(iii) no dependents certificate was filed;

(iv) death related report was also not filed and;

(v) no such occurrence took place.

7. The Tribunal framed issues:-

(i) whether he was a valid passenger?;

(ii) whether the claim is hit by under Section 123(C) of the Act?;

(iii) whether the applicants are



*dependents of the deceased and;
(iv) whether they are entitled for
the compensation?.*

8. Thereafter, 'the Tribunal' came to a finding that the lady had claimed that her husband was a *bona fide* passenger after purchasing a valid ticket, he was travelling which may have lost due to accident and in that backdrop, the onus was on the Railways to prove that he was not a *bona fide* passenger. 'The Tribunal' further held that in such accident where the injuries led to his death, it is common that the ticket could not be found.

9. 'The Tribunal' as such, held that the Railways have failed to prove that the deceased was not a *bona fide* passenger and accordingly allowed the O.A. No. 00185 of 2013 on 18.11.2016 with the direction to pay the compensation amount as recorded above.

10. Aggrieved, the present appeal was filed.

11. Learned counsel for the appellant submits that the claim of the appellant is that her husband was travelling from Thakurganj to Kishanganj and in course whereof, he fell down between Kishanganj and Hatwar. However, as Hatwar Station comes after Kishanganj, it is clear that he was not



having valid ticket at the time of accident and thus not a *bona fide* passenger and as such, 'the learned Tribunal' failed to look into this matter and erred in allowing the Claim Case No. O.A. No. 00185/2013.

12. In the considered view of this Court, the statement of the lady that he fell down between Kishanganj and Hatwar does not prove that the person was not having a valid ticket, the fact remains that there was rush in the train and due to the same and jerk, the accident occurred and it can be safely assumed that while he was trying to deboard the train at Kishanganj, it started moving and due to the excessive crowd, he fell down and accordingly sustained injuries which led to his death. Further the lady was not accompanying her husband and as such the said statement cannot be made basis for interfering with the just and proper order passed by 'the Tribunal'.

13. This statement of the lady in no way prove that her husband was not having a valid ticket and as such, 'the learned Tribunal' was completely justified in deciding the case against the Railways with the direction to pay the compensation amount.

14. In the aforesaid background, this Court do not find any error in order dated 18.11.2016 passed by the



Tribunal in Claim Case OA No. 00185 of 2013.

15. The M.A. No. 83 of 2017 fails and is accordingly, dismissed.

(Rajiv Roy, J)

Jagdish/Neha/-

AFR/NAFR	NAFR
CAV DATE	NA
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