

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.530 of 2015

Union Of India Through The General Manager Eastern Railway Kolkata

... .. Appellant/s

Versus

1. Sri Yogendra Mandal, resiedent of village- Purvi Colony, Quarter No. 19 AB, Police Station-Purvi Colony, District- Munger, State-Bihar.
2. Smt Malti Devi, wife of Sri Yogendra Mandal, resident of village- Purvi Colony, Quarter no. 19 AB, Police Station- Purvi Colony, District-Munger, State-Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	None
For the Respondent/s	:	None

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 07-12-2022

No one appears on call on behalf of the appellant-Railways. On 23.11.2022 also, no one had appeared on call.

2. The present appeal is directed against the order dated 14.08.2015 passed by the Railways Claims Tribunal, Patna Bench, Patna (henceforth for short 'the Tribunal') in Claim Case No. OA 00104 of 2013 by which the claim application filed by the respondents was allowed and direction was given to make payment of Rs. Four lakhs (two lakhs each) to the parents of the deceased respectively with 9% interest from 12.04.2013 when the application was registered till the final payment is made.

3. The matrix of facts giving rise to present



appeal is/are as follows:-

4. The son of the respondents, namely, Banti Kumar was travelling from Jamalpur to Kiul Junction on a valid Second class ticket by Train No. 13241 (UP), Banka-Rajendra Nagar Terminal Express and due to the excessive crowd of the passenger as also the push, he fell down between Jamalpur and Dasrathpur Station near Fulka halt which led to his death.

5. Accordingly, the claim petition was preferred before 'the Tribunal'.

6. The Railways appeared and contested the same stating therein that there was no recovery of ticket from his pocket and as such, he was not a *bona fide* passenger and thus he is not entitled to the compensation.

7. 'The Tribunal' framed issues which included:-

(i) whether he was moving on the said Train No. 13241 (UP), Banka-Rajendra Nagar Terminal Express from Jamalpur to Kiul and was having a valid ticket ?;

(ii) whether he died after falling from the train?;

(iii) whether the parents are entitled for the relief as sought for or not.



8. The applicants-parents-respondents submitted documents/exhibits which included:-

(i) the Memo No. 12.02.2013 issued by the Station Master, Jamalpur to the officer in-charge GRP/Jamalpur (Ext. 1);

(ii) the application of the parent, Yogendra Mandal to the officer in-charge, Railway Police, Jamalpur stating therein that his son had died near Fulka halt after falling from the train (Ext. 2);

(iii) the Inquest Report dated 12.02.2013 (Ext. 3);

(iv) the First Information Report lodged by Railway Police, Jamalpur (Ext. 4) ;

(v) the post-mortem Report dated 13.02.2013 (Ext.5)

(vi) the Final Report submitted by the police in U.D Case No. 3/2013 (Ext. 6);

(vii) the Voter I.D Card of the deceased (Ext. 7);

(viii) the Voter I.D Card of the applicant-parent, Yogendra Mandal (Ext. 8).

9. So far as the Railways are concerned, they submitted the following documents:-

Ext. R1, the Enquiry Report according to which, the death was due to the



negligence of the deceased with further narration that he was not a valid passenger and there was no ticket with him.

10. The applicant-parents had given an affidavit to the fact that he was moving on a valid ticket which may have lost due to the accident.

11. Accordingly, taking into account the decision of the Apex Court as also the different High Courts, once the affidavit is there stating that he is a valid passenger, the onus is on the Railways to prove that he was not a valid *bona fide* passenger.

12. Accordingly, 'the Tribunal' allowed the claim of their parents with further direction to make payment of Rs. Four Lakhs with 9% interest vide an order dated 14.08.2015.

13. Aggrieved, the present appeal has been filed.

14. From the documents that has been taken into account by 'the learned Tribunal', it is clear that the parents provided all the necessary papers/documents to show that their son was a valid passenger travelling on a valid ticket and died due to fall from the train near Fulka halt and the memo no. 12.02.2013 of the Station Master, Jamalpur as also the Inquest Report, Post-Mortem Report and the Final Report of the Rail Police, Jamalpur supports the case of the claimants-respondents.



15. Here, it is important to bring on record the observation of the Apex Court in the case of **Union Of India Vs. Reena Devi** reported in **AIR 2018 SCC 2632** by which it has been specifically stated in paragraph 17.4 that once the claimant files an affidavit that the deceased was moving on a valid ticket, the onus lie on the Railways to prove it otherwise. It is apt to incorporate the same which read as follows:

17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.



16. As such, 'the Tribunal was perfectly justified in passing the order dated 14.08.2015.

17. Be that as it may, since no one appears on behalf of the Railways, the appeal is dismissed for non-prosecution.

(Rajiv Roy, J)

Jagdish/neha/-

AFR/NAFR	AFR
CAV DATE	NA
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