

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.772 of 2017

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Ram Jhalak Yadav Son of Late Bhutu Yadav, Resident of Village- Belhi, P.O. Parwan, P.S.- Jai Nagar, District- Madhubani.

... .. Appellant/s

Versus

Union Of India Through The General Manager, Western Railway, Hajipur

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Abinash Kumar, Advocate
For the Respondent/s	:	Mr.Awadhesh Kumar Pandey, Sr. Panel Counsel
	:	Mr. Ravinder Kumar Sharma, C.G.C.
	:	Ms. Komal Chowbey, Advocate
	:	Mr. Saket Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 10-11-2022

I.A. No. 6197 of 2017

Heard the aforesaid I.A. which has been preferred for condoning the delay of 1 year, 4 months and 29 days.

In view of the averments made in the limitation petition, the delay is condoned.

The I.A. No. 6197 of 2017 is allowed.

M.A. No. 772 of 2017

Heard Mr. Abinash Kumar, learned counsel for the appellant and Mr. Awdhesh Kumar Pandey, learned counsel who represents the Railways.

2. The present appeal is directed against the order dated 4.12.2015 passed by the Member (Judicial), Railways Claims Tribunal, Patna Bench in case No OA 00164 of 2009



(Com. No. 548 of 2009) by which the application preferred by the appellant, father of the deceased was rejected.

3. The brief facts leading to the present appeal is/are as follows:-

Shambhu Kumar, 25 years, unmarried was on a train journey from Darbhanga to Surat to join a job at that place. He had two valid tickets vide No. E64622638 and E64622639, one from Darbhanga to Bhusawal and other from Bhusawal to Surat. He started his journey on 27.6.2009 and after arriving at Bhusawal, he continued his journey to Surat vide Train No. 2843, Puri-Ahmedabad Express. However, subsequently his dead body was found at 112/5-6 at Chichpara under Naudapur Police station in the District of Nandurbar. Accordingly, the Naudapur P.S. Case No. 32 of 2009 was registered and as at that particular time, the police failed to locate his family members, the mortal remains were consigned to flames.

4. Subsequently, the father Ramjhalak Yadav filed O.A. No. 00164 of 2009 before the Railway Claims Tribunal, Patna Bench (henceforth for short 'the Tribunal').

5. 'The Tribunal' decided four issues which are as follows:-

(i) whether the deceased was a genuine train passenger?



(ii) whether he died under Section 123(C)
(2) of the Railway Act, 1989?

(iii) whether the claimant is only
dependent person?

(iv) whether he is entitled to the
compensation or not?

6. The matter was heard at length and vide an order
dated 4.12.2015, 'the Tribunal' decided the issued as follows:-

i) So far as issue Nos. 1 and 2 are
concerned, 'the Tribunal' held that the deceased
was having a valid train ticket vide ticket No.
E64622638 and E64622639;

ii) on issue No. 2, is concerned, it further
decided that he was traveling in that train and fell
down between Bhusawal junction to Surat Junction
causing his death;

iii) on the point whether the claimant is
the only dependent person, 'the Tribunal' held that
in absence of any death certificate of the mother of
the deceased, it cannot be said that he was the only
claimant. 'The Tribunal' further held that even the
claimant failed to provide any document to show
that he is the father of the deceased.

iv) Accordingly, 'the Tribunal' rejected
the claim of the appellant herein.

7. Aggrieved, the present appeal has been filed.

8. Learned counsel for the appellant submits that
when 'the Tribunal' had come to a definite conclusion that the



deceased was having a valid ticket, was traveling on train No. 2843, Puri-Ahmedabad Express and during the journey the accident occurred causing his death, efforts should have been taken so that the appellant is allowed to show his bonafide by providing relevant documents. In absence of that, there was complete miscarriage to justice and denying the compensation to the father who is a rustic villager and fail to acknowledge the rules that has to be follow in such claim.

9. He as such submits that for the ends of justice, the appeal be allowed.

10. Mr. Awadhesh Kumar Pandey, learned counsel who represents the Railways submit that when the issues No. 1 and 2 were decided in the favour of the appellant herein, he should have taken effort to show his bona fide and in absence of that 'the learned Tribunal' was justified in disallowing his claim. He as such has justified the order dated 4.12.2015 passed by the Tribunal.

11. This Court has gone through the contentions put forward by the rival parties. The submissions put forward by the learned counsel for the appellant seems justified. When 'the Tribunal' came to a definite finding that the deceased was having a valid train ticket, was traveling on the Train No. 2843



Puri-Ahmedabad Express and in course of journey, the accident occurred and he died, the natural recourse was to allow the claimant to provide necessary documents to show his bonafide.

12. This Court thus comes to a conclusion that the O.A. No. 00164 of 2009 needs re-hearing. The respective counsels appearing on behalf of the appellant as also the respondents do not have any objection to that.

13. In the aforesaid facts and circumstances, the order dated 4.12.2015 passed in O.A. No. 00164 of 2009 by 'the learned Tribunal' is hereby set aside. The matter is remanded to 'the learned Tribunal' to hear the same afresh after providing opportunity to both the parties.

14. With the aforesaid observation, the M.A. No. 772 of 2017 is disposed of.

(Rajiv Roy, J)

Ravi/Ajay-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.11.2022
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