

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.367 of 2014**

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Smt. Gayatri Devi W/o Late Mahesh Pandey @ Mahesh Tiwari resident of  
Village- Bakhtiyarpur, Purani Bazar Sangat, P.O and P.S.-Bakhtiyarpur, Ward  
no. 4, District- Patna (Bihar).

... .. Appellant/s

Versus

The Union of India through the General Manager, East Central Railway,  
Hajipur

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Kumod Kumar Shrivastaw, Adv.

For the Respondent/s : Mr. Mahesh Prasad, Adv.

Mr. Ratnesh Kumar, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**Date : 02-09-2022**

Heard learned counsel for the appellant and learned  
counsel for the respondent.

The instant appeal has been preferred against the order  
dated 18.3.2013 passed in Claim Application no.OA 00162 of  
2003 by the learned Member (Technical), RCT, Patna whereby  
the learned Tribunal was pleased to dismiss the claim  
application filed by the petitioner-appellant.

The relevant facts in brief are that the husband of the  
appellant namely Mahesh Pandey @ Mahesh Tiwari who was  
the holder of a monthly season ticket issued by the Railways  
and valid from 28.1.2003 to 27.2.2003 boarded train no.3231  
(Howrah-Danapur Express) at Bakhtiyarpur Railway Station. As  
a result of the jostling between the passengers on the ground of



the train being overcrowded and the jerk, the husband of the appellant accidentally fell down, sustained serious injuries and died during course of treatment. As such, the appellant on 26.5.2003 filed an application for compensation under section 124A of the Railways Act before the Railway Claims Tribunal (hereinafter referred to as the 'Tribunal') praying for a total amount of compensation to the tune of Rs.4 lacs.

It was submitted by the petitioner-appellant in the claim petition that her husband Mahesh Pandey @ Mahesh Tiwari son of Late Nand Lal Pandey who was aged to be 40 years and was in private service working as a Munshi in Gokul Hotel at Patna died on 24.2.2003 as a result of sustaining serious injuries when he boarded on Train no.3231 (Up Howrah-Danapur Express) at Bakhtiyarpur Railway Station. He was holding valid monthly season ticket and accidentally fell down from the running train at Bakhtiyarpur due to push and pull due to overcrowded passengers. Pursuant to the accident sustained by the husband of the appellant, the G.R.P., Bakhtiyarpur instituted U.D. Case no.9 of 2003 and in their final report concluded that the death took place due to train accident. Pursuant to the claim application filed by the appellant, the contentions raised by the appellant as also the respondent-



Railways were considered by the Tribunal who by its order dated 18.3.2013 was pleased to dismiss the case of the appellant.

It is submitted by learned counsel appearing for the appellant that the learned Tribunal has committed an error in dismissing the claim of the appellant. He submits that for the train accident wherein the husband of the appellant sustained serious injuries, no second F.I.R. was lodged/registered for the said occurrence. The Tribunal has committed an error in interpreting that the monthly season ticket issued by the Railways in the name of Mr. Mahesh Pandit does not belong to the husband of the appellant for the reason that the name of father and address of the appellant had been correctly filled up in the application form and the same is in possession of the Railways. It is not the case of the Railways that the name of father and address of the husband of the appellant does not match. So far as the discrepancy in the age of the appellant at two places is concerned, the appellant happens to be an uneducated lady belonging to the rural background and having unfortunately lost her husband in the accident mentioned her age as per estimation and as advised by her well wishers. Post-mortem report confirms that the death took place as a result of a



train accident and the final report submitted in the U.D. case also support the case of the appellant. Learned counsel relying on the judgment of the Hon'ble Supreme Court in the case of Alembic Chemical Works Co. Ltd. vs. The Workmen [AIR 1961 (SC) 647], in the case of Jeewanlal Ltd. etc. etc. vs. Appellate Authority under the Payment of Gratuity Act and others etc. etc. [AIR 1984(SC)1842] and in the case of State of Orissa vs. Sudhakar Das(dead) by Lrs. [(2000) 3 Supreme Court Cases 27] submits that it is consistently held by the Hon'ble Supreme Court that statutes which are beneficial in nature, the Court interpret the provision thereof in a liberal manner which would serve the purpose for which the statute came into existence. The Tribunal not having done so has committed an error in law. The order is illegal and not sustainable and thus, it is prayed that the order impugned dated 18.3.2013 be set aside.

It is submitted by learned counsel appearing for the Railways that the order impugned dated 18.3.2013 passed by the learned Tribunal is a well reasoned order having been passed after taking into consideration all the material facts available on record. Each of the issues framed by the learned Tribunal have been dealt with in detail and the documents exhibited have been considered. The learned Tribunal rightly came to the conclusion



that the claims of the claimant were not only suspicious but also the appellant failed to establish her own identity as also that of the body found at Bakhtiyarpur Railway Station. The deceased was neither a bonafide passenger of Howrah-Danapur Express nor did he fall of any train. There is no merit in the instant appeal and the same be dismissed.

Heard learned counsel for the appellant and learned counsel for the Railways. The relevant facts in brief are that as per the case of the appellant, her husband who was holding a valid monthly season ticket issued by the Railways, valid from 28.1.2003 to 27.2.2003, boarded train no.3231 (Howrah-Danapur Express) at Bakhtiyarpur Railway Station and as a result of the push and pull because of the overcrowding, accidentally fell down from the running train, sustained serious injuries and died in course of treatment. The claim application filed by the appellant praying for grant of compensation was returned by the learned Tribunal by its order dated 18.3.2013 against which the instant appeal has been preferred.

Having heard learned counsel for the parties and on perusal of material on record including the Lower Court records, it transpires that the claim petition filed by the appellant was rejected by the learned Tribunal by the order impugned mainly



on the grounds that in the police report, the train from which the husband of the appellant fell down could not be identified, the police report does not reveal the name of the train, the final report submitted by the police cannot be relied upon. The monthly season ticket was not found on the person of the deceased by the G.R.P. and the ticket which was exhibited does not contain the name of the husband of the appellant.

It may be noted here that as per the fardbeyan lodged by Dinesh Tiwari, the brother of the deceased, he learnt from the villagers about his brother Mahesh Tiwari having died as a result of a train accident at 7.30 a.m. on 24.2.2003. He thereafter states that on the same day ie 24.2.2003 at about 4 a.m., his brother had gone from the house for Patna. On learning about the unfortunate death, the brother of the deceased along with other co-villagers namely Anil Singh, Suresh Ram, Upendra Ram proceeded to Bakhtiyarpur Railway line where they saw the dead body of his brother. On the written statement of the informant, F.I.R. was registered. From the facts stated, it transpires that although information was received by the informant about the death of his brother in the train accident at 7.30 a.m., he thereafter proceeded to the Railway line ie the place of accident and from going to the police station



nevertheless it is surprising that Rail P.S. Bakhtiyarpur (U.D. Case no.9 of 2003) was registered on 24.2.2003 at 7.30 a.m. itself.

On Perusal of the inquest report (Ext. A/6) dated 24.2.2003, it states that at 7.45 hrs., the dead body of the deceased was found by the side of the Railway line. It also talks about the articles recovered including the colour and description of the dress that the deceased was wearing. However it does not speak about any ticket or monthly season ticket having been recovered on the body of the deceased. So far as the monthly season ticket is concerned, from perusal of the claim application filed by the appellant as also the contents of the fardbeyan registered by the full brother of the deceased, the deceased was Mahesh Pandey @ Mahesh Tiwari, son of Nand Lal Pandey. At no place, has the surname of the deceased was described as Pandit. On perusal of the monthly season ticket (Ext.A/7), it transpires that the monthly season ticket exhibited has been issued to one Mr. M. Pandit. The name of the deceased at no place including the claim application form, affidavited deposition of A.W.1 Gayatri Devi (appellant), fardbeyan lodged by the brother of the deceased (Ext. A/3 and A/4), final report (Ext. A/5), inquest report (Ext. A/6), post-mortem report (Ext.



A/8), death certificate (Ext. A/9), burning ghat certificate (Ext. A/10), dependency certificate (Ext. A/11), certificate issued by the Ward Commissioner of Nagar Panchayat (Ext. A/12), Voter I-Card (Ext. A/13) has the deceased been described as having an alias second title of Pandit. At all the places in the above documents, his name mentioned as Mahesh Tiwari or Mahesh Pandey. Thus, the monthly season ticket (Ext. A/7) issued in the name of M. Pandit is not of the deceased-husband of the appellant. At this stage, it is submitted by learned counsel appearing for the appellant that it is the Railways which committed an error in issuing the ticket to the deceased in his name and the details ie the name of the deceased and his father's name and address had been correctly mentioned in his application form for issuance of the monthly season ticket. This submission is neither supported from any pleadings nor from the contents of the deposition of the appellant, A.W.1 Gayatri Devi.

So far as the judgment relied-on on behalf of the appellant is concerned, the Court finds that none of the judgments are of any assistance to the appellant in the facts of the instant case.

From the facts stated herein above, the Court comes to the conclusion that the appellant was neither able to establish



the identity of the body recovered nor that the husband of the appellant was holder of a valid railway season ticket for the relevant period.

Besides the above, there is also delay of about one year two days in filing of the instant appeal for which an application has been filed under section 5 of the Limitation Act praying for condoning the delay. The appellant submits that she was physically and mentally ill from 10.6.2013 to 17.6.2014 and thus could not file the instant appeal in time. On recovering from her ill health, she contacted her lawyer on 18.6.2014 and the instant appeal was filed on 19.6.2014.

So far as the limitation petition is concerned, the statements made therein are bald statements without there being any supporting documents in support of the illness of the appellant for more than one year from 10.6.2013 to 17.6.2014. The Court finds no merit in the application for condoning the delay in filing of the appeal nor on the merits of the case.

The appeal is dismissed.

**(Partha Sarthy, J)**

Saurabh/-

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