

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.241 of 2015

Union Of India Through General Manager East Central Railway

... .. Appellant/s

Versus

Indu Devi widow of Late Anand Kumar, resident of village Maujipur, P.S.
Fatuha, District Patna

... .. Respondent/s

Appearance :

For the Appellant/s : None

For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 13-12-2022

On call, no one appears on behalf of the
Railways.

2. The matter is of the year 2015.

3. The Railways themselves are appellant in
the present case challenging the order dated 26.05.2015 in OA
No. 00237 of 2008 by which the Railway Claims Tribunal,
Patna Bench, Patna (henceforth for short 'the Tribunal') having
been convinced that the deceased was a *bona fide* passenger, the
accident occurred and accordingly claimant is entitled for
compensation allowed the aforesaid OA with the following
direction:

*“that the claim
application of the
applicant/dependents is hereby
allowed, on contest, but without cost.*



The respondent Railway is hereby directed to pay Rs. 4,00,000/- (four lakhs), alongwith simple interest @ 8% per annum from the date of registration of the application i.e. 23.12.2018 till realization.

Rs. 2,00,000/- (two lakhs) alongwith proportionate interest, shall be paid to the applicant, namely, Smt Indu Devi, wife of the deceased.

Rs. 40,000/- (forty thousand) each alongwith proportionate interest, shall be paid to -1) Sapna Kumari daughter, 2) Varsha Kumari daughter, 3) Muskan Kumari daughter, 4) Yuvraj Singh son and 5) Mutur Singh son of the deceased. We are not in a position to award any compensation to the parents, as no document is produced by them or applicant to show that they are partly or wholly dependent on the deceased.

The applicants are directed to submit bank a/c details, at the earliest to the respondent. The respondent will not be liable to pay any interest for delayed period caused by applicants in submission of the



above document.

Copy of this order be supplied to both the parties free of costs, and file, after it's due completion be consigned to the Record Room. The order is dictated by the Member (T) and announced in the open Court on 26.05.2015, in the presence of learned counsels of both the parties, and Shri L.B. Choudhary, Presenting Officer of the opposite party."

4. Aggrieved, the present appeal has been preferred.

5. The case of the applicant-respondent, widow was that her husband was traveling as a *bona fide* passenger after purchasing ticket from Bakhtiyarpur to Patna by 3241 up Banka Intercity Express where he fell down and as a result of the injury he died.

6. Erroneously, the lady stated in the OA that her husband boarded the train at Fatuha. The Railways countered the same stating that the Banka Intercity do not have any stoppage at Fatuha and as such, the claim is fit to be rejected.



7. 'The learned Tribunal' took up the matter and vide an order dated 26.05.2015 observed:

(i) that the documents on record show that the deceased fell down from 3241 up and got run over;

(ii) only in the OA, the applicant claimed that he boarded train at Fatuha;

(iii) she was not traveling with the deceased and thus was not an eye witness to know actually where her husband boarded the train;

(iv) 'the Tribunal' as such is not in a position to accept the argument of the Railways that only on the basis of the averment that there was no stoppage at Fatuha, he should not be compensated.

8. Thus, it concluded that the deceased was a bona fide passenger and that due to falling from the train accidentally and thus, entitled to the compensation.

9. Aggrieved by the said order, the present appeal was filed.

10. This Court has gone through the findings of 'the Tribunal' and do not find any error in it.

11. Admittedly, the accident had happened and it is not the case of the Railways that the deceased was not a



bona fide passenger, the only argument that was put forward by them was contrary to the statement made by the lady that her husband boarded the train at Fatuha, there was no stoppage at Fatuha Station of Banka Intercity Express.

12. 'The Tribunal' as such, rightly observed that when the lady was not traveling with her husband, she may not be knowing about the actual place from where her husband boarded the train and thus, in view of the fact that an accident took place which is part of the record, the Railway cannot negate the claim.

13. This Court does not find any error in the order dated 26.05.2015 passed in OA No. 00237 of 2008

14. However, in view of the fact that the Railways have chosen not to appear in the matter to plead their appeal, the same is dismissed for non-prosecution.

(Rajiv Roy, J)

Jagdish/Neha/-

AFR/NAFR	NAFR
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