

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.578 of 2014

=====

Nandlal Vishwakarma son of Late Ramadaya Vishwakarma, resident of village- Barni Road Vishwakarma Nagar, P.S. Masaurhi, District- Patna (Bihar) (Applicant in Tribunal)

... .. Appellant/s

Versus

The Union of India through the General Manager, East Central Railway, Hajipur (Respondent in Tribunal)

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Anant Kumar-1, Advocate
For the Respondent/s : None

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 13-10-2022

Heard learned counsel for the appellant.

No one appears on behalf of the Railway-respondent.

By this appeal under section 23 of the Railway Claims Tribunal Act, 1987 the appellant has challenged the decision dated 7.7.2014 passed in Claim Application no. OA 00349 of 2005 by the Railway Claims Tribunal, Patna Bench whereby the claim application filed by the appellant was rejected.

It is submitted by learned counsel for the appellant that the son of the applicant died in a train accident on 23.5.2005 for which the claim case was filed for payment of compensation. It is submitted that in support of his claim application, the applicant besides filing his statement in the prescribed format, also filed the original monthly season ticket, the *fardbayan* of



the applicant, the document showing registration of U. D. Case No. 68/2013 on 19.11.2013 in the Railway Police Station (Taregna), Jehanabad, certified copy of the station diary entry of the police station, death certificate of the son of the applicant and the *Pariwarik Soochi*. It is submitted that by filing the said documents together with his statement, the applicant-appellant had carried out the initial onus which was on him and it was now for the Railways to prove his case otherwise. It is submitted that from perusal of the order impugned it would transpire that the learned Tribunal has rejected the claim of the appellant only on the ground that the documents submitted by the applicant and evidence given by the applicant no.2 are not supported by evidence submitted by the applicant and that the postmortem report and final report have not been produced by him. Learned counsel for the appellant submits that there has been no consideration of the case of the appellant on merits by the learned Tribunal.

No one appears on behalf of the respondent.

Having heard learned counsel for the parties and on having gone through the material on record including the lower Court records it transpires that besides the statement of the applicant in the prescribed format, also available on the record



is the affidavited statement of the applicant no.2 Renu Devi (mother of the deceased), the copy of the identity card issued to her by the Election Commission of India, the original monthly ticket issued by the railways, *fardbayan* of the appellant, photocopy of the document showing registration of U. D. Case No. 68/2013 on 19.11.2013 at 10:10 AM in the Railway Police Station (Taregana), Jehanabad, the station diary entry for the relevant date, death certificate of the deceased, and the *Pariwarik Soochi*. In addition to these documents, the lower Court record also contains the application of advocate Mr. Praveen Kumar Singh dated 5.11.2013 filed under the Right to Information Act addressed to the Public Information Officer C/O Superintendent of Police (Rail), Patna Rail along with photocopy of the postal orders, reply of the Rail Superintendent of Police, Patna contained in Memo no. 190 dated 29.11.2013, further reply of the Rail Superintendent of Police, Patna contained in Memo no. 190 dated 20.6.2014, the inquest report, the dead body challan, the final report dated 19.11.2013 with respect to U. D. Case no. 68/2013 and the postmortem examination report. In view of all the above materials being available on record, in the opinion of the Court, the learned Tribunal committed an error in not considering the documents



and rejecting the claim case filed by the appellant by the order impugned dated 7.7.2014 on the ground that applicant had not submitted the postmortem report and the final report.

Thus the order impugned cannot be sustained. The order dated 7.7.2014 passed in Claim Application No. OA 00349 of 2005 by the Member (Technical), R.C.T, Patna is set aside.

The matter is remitted back to the Railway Claims Tribunal, Patna for deciding the same on merits based on the documents available on record.

It is directed that the appellant himself or through his counsel will appear before the Railway Claims Tribunal, Patna Bench on 21.11.2022 on which date he will be informed about the next date fixed in the case, on which date the learned Tribunal will proceed to hear the claim case of the appellant on its merits and decide the same within a period of four months.

The appeal stands disposed of.

(Partha Sarthy, J)

nilmani/avinash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

