

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.501 of 2016

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Shri Adhar Kumar s/o Late Lala Hari Prasad resident of village - Ward no. - 9,
Bagdulhan Beg Duhan PS Hazipur Town, Distt Vaishali 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. Krishna Mohan Murari, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 08-02-2023 Heard Mr. Krishna Mohan Murari, learned counsel for
the appellant. No one appears on behalf of the Railways.

2. This appeal has been preferred for setting aside the order dated 30.03.2016 passed by the Railway Claims Tribunal, Patna Bench (hereinafter referred to as the 'Tribunal') in Claim Application No. OA00273 of 2005 whereby and whereunder, the learned Tribunal has held that the applicant has failed to prove that the deceased had died in the untoward incident. The claim preferred by the applicant-appellant has been rejected by the Tribunal.

3. Learned counsel for the appellant has assailed the impugned order. It is submitted that the learned Tribunal could not appreciate the evidence of the husband of the deceased who deposed as AW-1. In his deposition, though he has stated that he was not travelling with his wife but he has made a categorical statement that his two minor children were also travelling with their mother who



fell victim to the accident while boarding the train.

4. Learned counsel submits that the deceased had slipped while boarding train at Hajipur Railway Station. She was brought to hospital but on way, she died. The *fardbeyan* of the appellant was recorded by one Sri G.P. Singh, Sub Inspector of Hajipur in the hospital premises. Inquest report was also prepared and the postmortem report (Ext-A/3) shows that the wife of this appellant died due to shock and haemorrhage caused by hard and blunt objects and the period/duration of death was within 24 hours from the time of postmortem examination. Learned counsel submits that the appellant had produced the original journey ticket of the deceased (Ext-A/10) showing that she was travelling from Hajipur to Barauni. The final report submitted by police was not brought in evidence but certified copy of the same was sought to be brought on record after closure of evidence which was not accepted by the Tribunal. Learned counsel, therefore, submits that the Tribunal has completely erred in appreciating the materials available on record.

5. This Court has heard learned counsel for the appellant and perused the record. The case of the Railways is that the incident which is said to have occurred at Haiipur Railway Station was not brought to the notice of the Railway Administration. The Station Master report and DSE/SEE report accompanying DRM reports indicate that there is no entry in the Station Diary about the occurrence of such incident. There is also no eye witness of the said



incident. The S.I. had recorded the *fardbeyan* of the appellant after getting the information about the said incident in the hospital and the *fardbeyan* of the appellant was recorded but he was not an eye witness of the said incident. The *fardbeyan* did not mention about the journey ticket and in course of evidence, the appellant could not prove that from which source, the ticket was obtained by the applicant and why it was not mentioned in any of the documents filed by the applicant. The submissions made on behalf of the Railways to the aforesaid effect have weighted with the Tribunal. The Tribunal has recorded a finding that there is no evidence showing that the deceased had died due to falling down from the running train while travelling as bonafide passenger.

6. The Tribunal has found that there are major contradictions in the police report and other documents. This Court too finds that the conduct of the appellant is to be condemned. In his affidavit in evidence filed before the Tribunal, in paragraph-3, the appellant has categorically stated that on 06.08.2005, the deceased wife was travelling alone from Hajipur Junction to Barauni Junction by Sonapur-Barauni Passenger Train bearing No.310 but when he was cross-examined, in his cross-examination he made a statement that his wife was travelling with the children and the children had seen the occurrence. He claimed that both the children were present with him in the Court and if the Court wants, then their evidence may be recorded. This Court finds that on the face of his affidavit in



evidence saying that his wife was travelling alone in the train, his statement in the cross-examination that his wife was with the two children is not trustworthy. It was never his case and at no stage, he had sought to produce the children to support the occurrence. Their being no credible material on the record to support the case of the applicant-appellant, in the opinion of this Court, the Tribunal has not committed any error in dismissing the claim petition.

7. This appeal has no merit and it is dismissed with a cost of Rs.2,000/-. Let the cost be deposited by the appellant with the Patna High Court Legal Services Authority within a period of four weeks from today.

(Rajeev Ranjan Prasad, J)

Brajesh Kumar/-

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