

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.673 of 2017

Kiran Singh, Wife of Late Anant Kumar Singh, Daughter-in-law of Sri Satya Deo Singh, Resident of Village – Basaurha, P.O. Sadisopur, P.S. Bihta, District – Patna.

... .. Appellant

Versus

The Union of India Through The General Manager, East Central Railway, Hajipur (Patna)

... .. Respondent

Appearance :

For the Appellant	:	Mr. Ashok Kumar Singh, Advocate
	:	Mr. Brajesh Tiwary, Advocate
For the Respondent	:	Mr. Ashay Bhadur Mathur, C.G.C.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

9 24-08-2023 Heard learned counsel for the appellant and learned counsel for the respondent-East Central Railways.

2. This Miscellaneous Appeal has been filed against the order dated 24.11.2016 passed by the Hon'ble Member (Judicial), The Railways Claims Tribunal, Patna Bench in Claim Application No. OA-00327/2014 filed by the appellant for the compensation on account of death of husband of the appellant whereby the learned Tribunal has rejected the claim application of the appellant.

3. The case of the appellant is that husband of the claimant, namely, Anant Kumar Singh boarded Train No. 13112 Dn. (Delhi Kolkata Lal Quila Express) from Buxar for his native village Bihta on 06.10.2013 at 08:00 PM having valid



ticket and informed his wife from mobile having Mob. No. 08084987838 while boarding the train to the said destination.

4. The appellant tried to contact the husband just after about half an hour of his boarding the said train but in vain as the mobile of her husband was reported to be switched off and despite several attempts no contact could be assumed. The other family members also desperately tried to contact but none of them succeeded including the Police Personnel. However, as the family members were desperate and everyone was searching the nephew of the husband of the claimant, namely, Abhishek Pankaj could locate on 08.10.2013 that G.R.P. has picked up dead body on 07.10.2013 at Kushalpur Harnaha Halt and the track-man has reported that the deceased has fallen from Lal Quila Express. Abhishek Pankaj informed the relatives and good number of relatives reached the said Police station late in the night on 08.10.2013 and identified the deceased. In the following morning on 09.10.2013, they found the dress and shoes belonging to the deceased.

5. The Deputy Station Manager, Buxer had informed the G.R.P., Buxar *vide* Memo No. OC/G.R.P./BXR-9.OC dated 07.10.2013 that one unidentified person has met accident and fallen from a train in down lane and the dead body is lying between Burna and Dumaraon K.M. 649.0642 and G.R.P.,



Buxar registered aforesaid memo as Buxar Rail P.S. U.D. Case No. 67/2013 dated 07.10.2013. Accordingly, inquest report was prepared by Assistant Sub-Inspector, G.R.P. Buxar at Kushalpur, Harnaha Halt and the dead body was sent for postmortem to Sadar Hospital, Buxar, which is evident *vide Challan* (Annexure-3).

6. The postmortem report shows that the deceased had died due to impact of hard substance. The elder brother of the deceased reported to the Officer Incharge G.R.P., Buxar claiming the said dead body is of his brother, namely, Anant Kumar, who while travelling in the aforesaid train fell down from the train at Kushalpur Harnaha Halt owing to heavy jerk as there was heavy rush in the train. The dead body was handed over to the elder brother, namely, Ashok Kumar Singh on 09.10.2013 and the funeral was performed at Chatiravan Ghat, Buxar for which receipt of Rs. 30/- was issued by the management of the said *Ghat vide* Receipt No. 30710 on 09.10.2023.

7. It is stated that the appellant is now fully dependent upon her aged father-in-law, about 85 years of age and that she is issueless widow and this disadvantageous situation precluded her to submit final report in time. However, the counsel for the appellant prayed for time before the Tribunal to submit final



form on 24.11.2016 but the request was declined by the Railways Claims Tribunal, Patna. The rejection order was passed on 24.11.2016 in OA-00327/2014. However, subsequently for review of the order, Review Petition bearing No. 06 of 2017 was filed, but the same too stood rejected *vide* order dated 30.06.2017.

8. The counsel for the appellant argues that the evidences such as inquest report dated 07.10.2013, *Challan* for postmortem, postmortem report dated 08.10.2013, application dated 09.10.2013 claiming dead body by the elder brother after identification of the deceased, receipt of receiving dead body of Anant Kumar Singh, funeral receipt dated 09.10.2023 and ultimately final form in Review Petition, all goes to show that Anant Kumar Singh had met with an accident due to fall from the running train, namely, Delhi Kolkata Lal Quila Express on the Dn. line at Kushalpur Harnaha Halt while travelling from Buxar to Bihta.

9. The Railway-respondent has failed to disprove the evidences discussed above and did not filed any evidence on behalf of the Railway-respondent.

10. It is manifest that after hearing the parties the learned Tribunal specifically mentioned that claimant had filed 10 documentary evidences, which has been annexed as



Annexure 1 to Annexure 10 but the Railways neither filed any documentary evidence nor adduced any evidence on behalf of the East Central Railway. However, it is admitted fact that the deceased fell down from the train and thus, died in a railway accident. How and in what manner the accident took place cannot be expected to be explained by the appellant as she was not accompanying her husband.

11. Considering the submissions made by the parties, this Court finds that the learned Claims Tribunal failed to consider the material evidence which shows that the husband of claimant died due to falling down from the train. Post-mortem report also supported the claim of the claimant.

12. In such view of the matter, the impugned order dated 14.11.2016 passed by the learned Member (Judicial), Railway Claims Appeal Tribunal, Patna, in Claim Application No. OA-00327/2014 is hereby set aside and the appeal is allowed.

13. Now, with regard to quantum of compensation in respect of accident, the same has been settled by the Hon'ble Supreme Court in the case of ***Union of India vs Dilip and others (Civil Appeal No. 9124 of 2019)*** which reads as follows:-

“The question, whether in respect of accidents that occurred before the Railways Accidents and Untoward



Incidents (Compensation) Rules, 1990 were amended w.e.f. 27.12.2016, the amount of compensation has to be arrived, taking into account the base figure of Rs 4 lakhs or Rs 8 lakhs was considered by this Court in Union of India vs. Rina Devi [(2019) 3 SCC 572].”

14. The aforesaid judgment was further explained by the Hon'ble Supreme Court in the case of ***Union of India vs. Radha Yadav*** reported in **2019 (4) SCC 410**, which reads as under:-

“10. The issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in the case of Rina Devi is very clear. What this Court has laid down is that the amount of compensation payable on the date of accident with reasonable rate of interest shall first be calculated. If the amount so calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. Therefore, if the liability had arisen before the amendment was brought in, the basic figure would be as per the Schedule as was in existence before the amendment and on such basic figure reasonable



rate of interest would be calculated. If there be any difference between the amount so calculated and the amount prescribed in the Schedule as on the date of the award, the higher of two figures would be the measure of compensation. For instance, in case of a death in an accident which occurred before amendment, the basic figure would be Rs.4,00,000/-. If, after applying reasonable rate of interest, the final figure were to be less than Rs.8,00,000/-, which was brought in by way of amendment, the claimant would be entitled to Rs.8,00,000/-. If, however, the amount of original compensation with rate of interest were to exceed the sum of Rs.8,00,000/- the compensation would be in terms of figure in excess of Rs.8,00,000/-. The idea is to afford the benefit of the amendment, to the extent possible. Thus, according to us, the matter is crystal clear. The issue does not need any further clarification or elaboration.”

15. In the aforesaid judgment, the Hon'ble Supreme Court has held that “The compensation be computed taking interest @ 7.5% per annum in accordance with both the modalities namely;



(a) Which was in existence before the amendment with Rs. 4 lakhs as the base figure.

(b) Which came into existence after the amendment, with Rs. 8 lakhs as the base figure. The compensation shall thereafter be payable in accordance with the sum which is greater of the two, as laid down in the aforesaid judgments.

16. Accordingly, this Miscellaneous Appeal is allowed.

17. The Hon'ble Supreme Court in *Civil Appeal No. 9124 of 2019 (arising out of SLP (c) No. 6486 of 2018* has ascertained the modalities with regard to quantum of compensation.

18. The learned Tribunal is directed to calculate the amount of compensation in the light of the judgment of the Hon'ble Supreme Court quoted above and ensure the payment of the same at the earliest, preferably, within three months from the date of receipt/production of a copy of this order.

(Khatim Reza, J)

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