

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1114 of 2016

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Bishwanath Pandit Son of Parmeshwar Pandit Resident of village - Harpur
Gopal, P.O. - Khanpur Pakari, P.S. - Bidupur, District - Vaishali Bihar.

... .. Appellant/s

Versus

Union Of India, Through Its General Manager, E. C. Railway, Hajipur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pravin Kumar Gupta, Adv.
For the Respondent/s : Mrs. Kanak Verma, CGC

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

9 10-04-2024 Heard the learned counsel for the appellant as well as
the learned counsel for the Union of India (Railways).

2. This miscellaneous appeal has been preferred against the order dated 19.07.2016 passed by Railway Claims Tribunal, Patna Bench in Claim Application No. OA 00764 of 2014, whereby the claim application of the appellant was dismissed.

3. Brief facts of this case is that Smt. Lalmuni Amrendra Kumar, wife of the appellant, was travelling by Train No. 55550 Up on 21.09.2014 from Hazipur Railway Station and her destination was Chak Sikandar Railway Station, but she accidentally fell down from the train between Bidupur Railway Station and Chak Sikandar. Due to falling from the running train, she sustained injuries. She was brought to Sadar Hospital,



Hazipur for her medical treatment from there she was referred to Patna Medical College and Hospital where she died due to injuries suffered by her.

4. The respondent-railways denied it to be a case of untoward incident as defined under Section 123(c)(2) of the Railways Act, 1989.

5. Some documentary evidences have been filed by the claimant-appellant to prove it to be a case of untoward incident. Exhibit A 1 is the copy of *fardbeyan* of Shri Bishwanath Pandit recorded by S.I. Camp Office, P.M.C.H. at Patna. Exhibit-A 2 is the certified copy of the inquest report of the deceased it has been filed to prove that Lalmuni Devi died in an accident falling down from the train. Exhibit A3 is the certified copy of the dead body challan and Exhibit- A4 is the *post-mortem* report and as per post-mortem report, the injuries were caused by hard and blunt substance. Exhibit A5 is the copy of final report which indicates that the deceased had died due to the serious injuries caused by falling down from the train. Exhibit A6 is the family membership certificate showing that the appellant is the family member of the deceased. Exhibit A7 is the copy of Voter ID Card of Lalmuni Devi and Exhibit A9 is the death certificate.



6. Learned counsel for the appellant submits that the entire exhibits establish that Lalmuni Devi who was travelling with her 10-year-old son fell down from the train and died due to untoward incident as defined under Section 123 (c)(2) of the Railways Act, but the learned Tribunal committed illegality in rejecting the application on sole ground that the deceased was not having a valid ticket as such, the appellant is not entitled for the compensation. He submits that the deceased was having a valid ticket, but as she was badly injured and died during course of treatment the said ticket could not be recovered from her possession. Her son who was travelling with her was about 10 years at that time and it was the reason that he could not file affidavit with an averment that the deceased was having a valid ticket. But, presently he has filed the affidavit and this case squarely covers with a decision of Hon'ble Supreme Court in the case of *Union of India vs. Rina Devi dated 9 May, 2018*.

7. On the other hand, the learned counsel for the Union of India submitted that the deceased was travelling without ticket and the affidavit by her son has been filed at belated stage during this appeal.

8. The documentary evidences, as noted above, establish that the deceased died due to falling from the train. Her



son who was also with her at the time of accident was only about 10 years. At initial stage, he could not file affidavit as he was not aware with the intricacies of the law. Subsequently, he filed an affidavit and averred that he was travelling with her mother on that ill-fated day by the train. His mother fell down from the Train No. 55550, Up Hazipur-Barauni passenger train. His mother was having valid ticket and he was also having a second class ticket.

9. In my view, as the claimant proved his case, he is entitled for compensation as claimed in his petition and therefore, the order dated 19.07.2016 passed by the Railway Claims Tribunal, Patna Bench in Claim Application No. OA 00764 of 2014 is set aside. Accordingly, this miscellaneous appeal is allowed.

(Nawneet Kumar Pandey, J)

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