

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.360 of 2014

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The Union Of India Through The Genral Manager, East Central Railway,
Hajipur

... .. Appellant/s

Versus

Shila Devi wife of Late Nagendra Prasad, Resident of Village-Alawalpur,
P.S.-Gaurichak, District-Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Alok Kumar, C.G.C.

For the Respondent/s : Mr. Anant Kumar 1, Adv.

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

16 12-01-2024

This Miscellaneous Appeal has been filed against the judgment and order dated 10.03.2014 passed by the Member (Technical) Railway Claims Tribunal, Patna Bench, Patna in Claim Application No. OA00066 of 2003 whereby the claim application has been allowed and the railway-appellant has been directed to pay four lakhs along with simple interest at the rate of 6% per annum from the date of registration i.e. 28.02.2003 till realization within sixty days from the date of pronouncement of this order, in default, further interest at the rate of 8% from 28.02.2003 till the date of realization.

2. The applicant-respondent is widow of deceased, namely, Nagrendra Prasad before the Tribunal for payment of compensation of rupees four lakhs on account of death of her husband due to injury sustained by him in an untoward incident



along with all the relevant documents in support of her claim which are as follows:-

- (i). True copy of First Information Report bearing U.D. Case No. 20 of 2002.
- (ii). True copy of Inquest Report dated 25.11.2022.
- (iii). True copy of the '*Kaman*' i.e. Card Pass No. 050623.
- (iv). True copy of the post-mortem Report dated 26.11.2022.
- (v). True copy of the Final Report dated 28.11.2002.

3. The applicant-respondent has averred in the claim application that on 25.11.2002 the deceased Nagendra Prasad was going from Barauni to Kiul Station by Train No. 3186, namely, Ganga Sagar Express for discharging his duty. The said Nagendra Prasad being member of escort party, he along with Birsa Dorai Guru and Subhash Chandra Prasad was also in duty in Train No. 3186 having obtained valid '*Kaman*' i.e. Card Pass No. 050623 issued by the authority concerned. The deceased along with his colleague boarded the train at Barauni Junction at 5:30 pm. While the train was standing at Barhaiya Railway Station, the deceased along with his colleague got down at Barhaiya Railway Station for inspection of the Station and while boarding the train again when the train was moving slowly, he accidentally fell down from the running train due to heavy rush inside the compartment, he died at the spot. One of the



colleague, namely, Birsa Dorai Guru got down from train and went to the place of occurrence and found that Nagendra Prasad has died. The matter was reported to the police and accordingly U.D. Case No. 20 of 2002 was instituted at Kiul Rail Police Station. The police investigated the matter and found that the factum of accident is true and the deceased died in the said untoward incident. The identity card of the deceased indicate his name and also it was issued by Superintendent of Police, Special Branch, Bihar for discharging of duty for escort party was issued by the competent authority, however, the deceased Nagendra Prasad was one of the members of escort party having valid '*Kaman*' for escorting the train.

4. On the other hand respondent-appellant has filed written statement. The respondent-appellant denied the claim and averred that in absence of authority of travel for escorting the train, the deceased is not a bona fide passenger and prayed for dismissal of the claim application.

5. After hearing the parties and considering the documents filed by the applicant along with the application, the learned Tribunal has held that the deceased fell down from the train in course of journey with valid pass card bearing No. 050623 for escorting Train No. 3186 (Ganga Sagar Express)



from Barauni to Kiul and hence, it is an untoward incident as per Section 123(C) of the Railways Act and the respondent-appellant is liable to pay compensation and is further directed to pay rupees four lakhs along with simple interest @ 6% per annum from the date of registration of the application i.e. 28.02.2003 till realization within 60 days, in default, further interest @ 8% from 28.02.2003 till the date of realization is to be paid.

6. Learned counsel for the railway-appellant submitted that the police personnel are not entitled to travel without valid warrant or '*Kaman*' issued by the competent authority of the police. The GRP police personnel who are posted in the railway stations are also not entitled to travel without valid railway ticket other than the GRP police personnel who are on duty for escorting the train as an escorting party with warrant or to train destination only and not beyond that. It is submitted that the learned Tribunal has failed to appreciate that the deceased has boarded in the said train while running with full knowledge of the eminent possibility of endangering his life which squarely covers with the inflicted injury and explained under Proviso (b) of Section 124 A of the Railways Act, 1989. It is further submitted that the claimant didn't appear before the



Tribunal to give documentary evidence on several dates. The claim application ought to have been dismissed for non-prosecution.

7. After scrutinizing the evidences on record and considering the impugned judgment, it is admitted case that the deceased was one of the members of the escorting party having Card Pass No. 050623 was escorting Train No. 3186 (Ganga Sagar Express) from Barauni to Kiul. During the course of discharging their duties the deceased along with his colleagues got down at Barhaiya Railway Station from the train for inspection of Station and again the deceased boarded the slow moving train and he accidentally fell down from the running train and died on the spot. The Card Pass i.e. *Kaman* bearing No. 050623 issued by the competent authority by which name of the three police personnel have been mentioned as are follows:-

- (i). Birsa Dorai Guru (Constable No. 351)
- (ii). Dinesh Yadav (Constable No. 440)
- (iii). Nagendra Prasad (Constable No. 401)
- (iv). Subhash Chandra Pd. (Constable No. 213)

8. It is specifically mentioned in the reason for issuing warrant in favour of aforesaid persons which is as follows:-



“वास्ते जाने गाड़ी संख्या 3186 डाउन का मार्ग रक्षण करने हेतु कार्ड पास संख्या न० 050623 14:30 hrs दिनांक 25.11.2002 Arrival 19:45 hrs.”

9. Considering the aforesaid document, namely, Card Pass No. 050623 issued by the concerned authority, the deceased was travelling/escorting the Train No. 3168 (Ganga Sagar Express) with valid journey authority letter (warrant/*kaman*).

10. This Court finds that the learned Tribunal has considered the material evidence which shows that the husband of the applicant died due to falling down from the train. The post-mortem report also support the claim of the applicant-respondent.

11. Now, with regard to question of amount 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].”

12. 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.”

13. 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.”

14. Accordingly, this Miscellaneous Appeal is



dismissed.

15. In the light of judgment passed by the Hon'ble Supreme Court in the case of *Union of India vs Dilip and others (Supra)* and *Union of India vs Radha Yadav (Supra)*, the interest of the compensation should be calculated accordingly. 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 a period of three months.

(Khatim Reza, J)

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