

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.449 of 2014

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

... .. Appellant/s

Versus

Bhutta Paswan, Son of Late Khelawan Paswan, Resident of Village and P.O. -
Kurhani, P.S. - Kurhani, District - Muzaffarpur.

... .. Respondent/s

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Appearance :

For the U.O.I.	:	Mrs. Kanak Verma, C.G.C.
For the Respondent/s	:	Mrs. Sudha Ambastha, Advocate
		Mrs. Soma Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 20-08-2024

Heard learned counsel for the parties.

2. This Miscellaneous Application has been filed against the Judgment/Order dated 25.02.2014 passed in Claim Application No. O.A. 00236 of 2003 by the learned Member, Railway Claims Tribunal, Patna Bench, whereby the learned Tribunal, allowed the claim application of the applicant/respondent, on contest but without cost and the appellant/Railway was directed to make payment of Rs. 4,00,000/- (four lac), along with simple interest of 6 % per annum from the date of registration of the application i.e. 14.08.2003, till realization. It was further directed, if the



payment is not made, within 60 days from the date of pronouncement of the order, the entire amount will attract simple interest of 8% per annum from 14.08.2003, till the date of realization.

3. The case of the claimant in brief is that the deceased Ashok Paswan, son of the respondent Bhutta Paswan was travelling on train from Kurhani to Muzaffarpur on 22.06.2003 having valid Ticket No. 98403, fell down near Turki Railway Station and sustained injuries. During the course of treatment at Sadar Hospital, Muzaffarpur, he succumbed to injuries and died.

4. The applicant/ respondent filed Claim Application vide O.A. No. 00236/2003 before the Rail Claim Tribunal claiming compensation of Rs. 4,00,000/- on the ground that due to injury sustained by the son of applicant who was a bonafide passenger had died in untoward incident during the treatment at Sadar Hospital, Muzaffarpur.

5. The Union of India through the General Manager, East Central Railway, Hajipur, the appellant herein has filed written statement denying the said claim and stated that the deceased was not a bonafide passenger and was not a victim of the alleged untoward incident as claimed by the respondent.



6. The learned Tribunal on appreciation of rival pleadings framed the following issues:-

1. Whether the deceased was a victim of the alleged incident and whether the alleged untoward incident is covered under Section 123 (c) (2) of the Railways Act, 1989?

2. Whether the deceased, Ashok Kumar was a bonafide passenger of Train No. 522 Dn. On 22.06.2003 at the time of the alleged untoward incident?

3. Whether the claim application of the applicant is maintainable?

4. Whether the applicant/dependents of the deceased are entitled to receive compensation, as claimed for?

7. During the enquiry, in order to establish the claim, the applicant, father of deceased filed his affidavit (Ext. A/1) and also filed certified copy of documents (Ext. A/01 to Ext. A/12) including certified copy of inquest report (Ext. A/4), dead body challan (Ext. A/6), post-mortem report (Ext. A/7), dependency certificate (Ext. A/9), Voter Identity Card (Ext. A/12).

8. The appellant Railway has not filed any documentary evidence in support of their written statement.



9. The learned Tribunal on the basis of material on record and after hearing the parties allowed the claim application and directed to pay compensation with interest to applicant vide the impugned Judgment/Order as stated above.

10. Learned counsel for the appellant further submits that the learned Tribunal has not considered that if the incident was as such the ticket number ought to have been mentioned in the inquest report, but in the inquest report no ticket number has been mentioned. It is further submitted that mere production of railway ticket is not sufficient to establish that the deceased was victim of the alleged untoward incident. She further submits that such incident, had not mentioned in the station diary of the Turki Railway Station and merely on the basis of the FIR, it cannot be said that the incident has taken place. Learned counsel for the appellant further submits that there is no independent witness to prove the case of the claimant/respondent. Accordingly, the applicant is not entitled for any compensation from the Railway Claim Tribunal.

11. On the other hand, learned counsel for the respondent submits that the ticket was found from the deceased who was died during the treatment. The deceased was son of the applicant/ respondent and was a bonafide passenger. She further



submits that the final report i.e. Ext. A/11, indicates that on 22.06.2003, the deceased got injury by the train when he was travelling from Kurhani to Muzaffarpur. She has further submits that the inquest report was prepared on 22.06.2003 and on that basis the FIR was registered. After considering all these facts, the learned Tribunal has passed the impugned order which is a reasoned order, requires no interference by this Court.

12. Having heard the learned counsel for the parties and on perusal of material available on record, it appears from the perusal of impugned order that investigation report has been submitted for U.D. Case No. 34 of 2003. As per the certified copy of the FIR (Ext. A/10), the deceased, Ashok Paswan met with the accident and died on 22.06.2003. After the investigation, the Investigating Officer has filed the final report (Ext. A/11), which indicates that on 22.06.2003, the deceased got injury by train, and was sent for treatment to Sadar Hospital, Muzaffarpur and from the injured, one ticket from Kurhani to Muzaffarpur was found. The untoward incident cannot be doubted in absence of other material. It also appears that the applicant has filed his affidavit stating the relevant fact and discharged his initial burden but the appellant/ Railway has not filed any document in rebuttal or denial of the claim of the



applicant.

13. In considered opinion of this Court, learned Tribunal has rightly allowed the claim application vide impugned Judgment/Order, which requires no interference by this Court. The learned Tribunal has correctly considered the evidence and material available on record applying settled Principle of Law. The compensation awarded vide the impugned Judgment/Order is in accordance with law. The Miscellaneous Appeal is liable to be dismissed, accordingly, M.A. No. 449 of 2014, stands dismissed to that extent.

14. It is to be mentioned herein with respect to interest on compensation amount, it is now well settled in the case of **Union of India Vs. Rina Devi** reported in **2019 (3)SCC 572** wherein it has been held that interest can be awarded without any difference in the stages. In my opinion, the interest awarded @ 6% *per annum* shall apply from the date of registration of application i.e. 14.08.2003 till its realization which is appropriate in the fact and circumstances of this case.

15. Accordingly, the compensation awarded vide impugned Judgment/ Order dated 25.02.2014 passed in O.A. No. 236 of 2003 is confirmed with modification in the said



Judgment/ Order with respect to interest to the extent that the simple interest shall be 6% *per annum* from the date of filing of the claim application till its realization.

16. Accordingly, this Miscellaneous Appeal is disposed of with the aforesaid modification in the impugned Judgment/Award.

17. There shall be no order as to costs.

18. Pending application, if any, shall stand disposed of.

19. The appellant shall pay the compensation amount with interest minus any amount already paid within a period of two months from today.

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	21-08-2024
Transmission Date	

