

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.795 of 2016

1. Mostt. Meena Devi, Widow of Late Chhotan Singh
2. Ram Kumar, Son of Late Chhotan Singh
3. Nikki Kumari, minor (now major), daughter of late Chhotan Singh
All residents of village- Laheriya Tola, Ward No. 11, P.S- Mokama, District Patna.

... .. Appellant/s

Versus

Union Of India, Through The General Manager, Eastern Central Railway,
Hajipur Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sidhendra Narayan Singh, Advocate
For the Respondent/s : Mr. Rakesh Kumar Sinha, CGC

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

CAV JUDGMENT

Date: 18-04-2025

Heard learned counsel for both the parties.

2. This miscellaneous appeal is directed against the order dated 01.04.2016 passed by the Railway Claims Tribunal, Patna Bench in Claim Application No. OA-00072 of 2009 by which the claim for compensation of the claimants before the Railway Tribunal for the death of claimant's husband and father in an untoward incidence on the railway track has been rejected.

3. That the brief facts leading to this appeal is that on 21.12.2008, the deceased Chhotan Singh left from his house in Mokama to Barh by train carrying Ticket No. 52054092 and while returning on same day from Barh to Mokama he was carrying Ticket No. 52054093. In his journey



from Barh to Mokama, it was claimed by the claimants that he fell down from train on the rail track near Shivnar Railway Halt and got serious injuries and died there on the rail track itself due to the said injuries. When the deceased did not return back at home, his family members started searching for him. They heard about a dead body being found on the railway tracks and went to the spot and there identified the deceased as Chhotan Singh. On the basis of information, GRPF, Mokama came and both the aforesaid tickets were recovered from pocket of the deceased. The GRPF registered UD Case no. 41 of 2008 on 22.12.2008, prepared Inquest Report and on written request of one Sanjay Kumar who claimed to be son-in-law of the said deceased Chhotan Singh, the dead body of Chhotan Singh was handed over to Sanjay Kumar for last rites after Post Mortem.

4. On the basis of Inquest Report, details of aforesaid tickets, written application of Sanjay Kumar and Post Mortem Report, all of which disclosed that the deceased Chhotan Singh allegedly died in train accident, the GRPF, Mokama after investigation, submitted Final Report in UD Case no. 41 of 2008 on 22.12.2008 itself allegedly stating that the death of Chhotan Singh happened in a train accident.

5. The applicants/claimants-appellants being



widow, son & minor daughter (now become major) of the deceased Chhotan Singh respectively filed an application under Section 125 of the Railway Act claiming compensation under Sections 124/124-A of the Railway Act read with Section 16 of the Railway Claims Tribunal Act before the learned Patna Bench of Railway Claim Tribunal on 06.04.2009, which was registered on 09.04.2009 as Case No. OA 00072 of 2009 claiming compensation of Rs. 4,00,000/- (Four Lakhs Rupees) on account of death of said Chhotan Singh in Untoward Incidents. They submitted documentary evidence contained in Ann-series along with Death Certificate of deceased dated 03.02.2009, list of Family certificate dated 12.02.2009, Aadhar Card, Photo, etc. Apart from documentary evidence aforesaid contained in Ann- 1 series & 2 series, which were duly exhibited by and before the Learned Railway Claim Tribunal as Ann- A/1 to A/9, appellant no. 1 adduced her oral evidence on 20.04.2015 in support of the aforesaid claim aforesaid.

6. The tribunal on the basis of the rival pleadings of the parties and the materials on record rejected the claim case on the grounds that the death of the deceased occurred by reason of being run over by the train and not any “un-towards accidents” as defined under Section 123 of the Railway Act. The



tribunal further held that the tickets found on the body of the deceased were not valid tickets and they did not prove that the deceased was a bonafide passenger who would be entitled to claim compensation from the respondents.

7. Learned counsel for the appellants submitted that the inquest report, UD case and all documents proved that the deceased died by falling from the train in an un-towards accident. Learned counsel for the appellants relied on the decision of ***Union of India v. Rina Devi*, (2019) 3 SCC 572** wherein the Apex Court held that onus of proof that a claimant is a bonafide passenger can shift on the Railways if an affidavit of relevant facts is filed by the claimant. The Apex Court observed as follows:

*“The Delhi High Court in **Gurcharan Singh [Gurcharan Singh v. Union of India, 2014 SCC OnLine Del 101]** held that initial onus to prove death or injury to a bonafide passenger is always on the claimant. However, such onus can shift on the Railways if an affidavit of relevant facts is filed by the claimant. A negative onus cannot be placed on the Railways. Onus to prove that the deceased or injured was a bonafide passenger can be discharged even in absence of a ticket if relevant facts are shown that ticket was purchased but it was lost.”*

7.i. He submitted that in the instant case, the



claimant, i.e. deceased's wife stated in affidavit that the death of her husband occurred by accidental falling. As such the onus of proving that the deceased was not a bonafide passenger falls on the respondent Railways. He next submitted that the validity/genuineness of the documentary evidence available on record are neither disputed nor the same have been disproved by any oral or documentary evidence by the respondent. He further submitted that it is well settled that either fall from a running train or falling while boarding the train, all comes within the purview of Untoward Incidents and the dependents of victim would be entitle for compensation from respondent-railway. He further submitted that the impugned order is illegal, erroneous, based on flimsy grounds and deserve to be set aside.

8. On the other hand learned counsel for the respondent/Railways submitted that the reliance of the appellants on the decision of *Rina Devi (supra)* is misplaced because the first requirement is that the deceased should have been in possession of a valid ticket. The counsel submitted that in order to be eligible to claim compensation under the Railway Act, 1989 the claimant needs to prove two requirements, i.e.

- i. The claimant should be a 'passenger' as defined in the Railway Act, 1989 and



ii. The passenger should have lost his life in an ‘untowards accident;’ as defined in the Act.

8.i. Learned counsel submitted that ‘passenger’ is defined in Section 2(29) of the Railway Act 1989. It reads as follows:

(29). “passenger” means a person travelling with a valid pass or ticket.

‘Un-towards accident’ is defined in Section 123 of the Act and it reads as follows:

“123. Definitions.—In this Chapter, unless the context otherwise requires —

(c) “untoward incident” means—

(1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.

8.ii. Learned counsel submits that it is an admitted fact that the body of the deceased was found lying on the railway track. The final report prepared by the GRPF also stated that the body of the deceased was found on the railway



track. Learned counsel submits that the deceased did not fall from the train and the onus is on the claimant to prove accidental falling from the train. He next submits that the claimant's case does not mention any incident of falling from the train and thus there is no un-towards accident as per the definition under Section 123(c) of the Act.

8.iii. He next submitted that the tribunal held in its judgment that the inquest report submitted by the Railway police stated that the death of the claimant occurred due to run over by the train and not accidental falling. The tribunal also held that that the ticket found on the body of the deceased was not a valid ticket. Learned counsel submitted that the claimants did not produce the valid train ticket of the claimant but rather showed the photo-copy of the alleged ticket. He further submitted that the police final investigation report also did not mention anything about the railway ticket. The final report as well as the inquest report, which was prepared on the place of occurrence stated that the death of the claimant did not occur due to accidental falling.

8.iv. He next submitted that the reliance of the appellants on the decision of Apex Court in *Rina Devi (supra)* could help the appellants, as the affidavit produced by the



appellants has to be corroborated with further evidence. He submits only a bonafide passenger traveling with a valid ticket who dies by accidental falling from the train is eligible for compensation and in the instant case, neither of the requirements are fulfilled by the claimants/appellants. He thus submits that the circumstances accompanying the claim case pointed towards the death due to 'run-over' and not by way of 'untoward incident' and thus has been rightly rejected by the tribunal.

9. I have perused the submissions of the counsel for the parties at length and also perused the materials on record. As submitted by the counsel for the respondent and as noticed from the statutory provisions of the Railway Act, 1989, compensation is payable for death or injury of a "*passenger*". In the instant case, the claimant/appellants failed to produce the valid railway ticket of the deceased. In ***Rina Devi (supra)***, the Apex Court held that even in the absence of a ticket the claim can be sustained but it has to be supported by surrounding facts and circumstances. However in the instant case, the facts and circumstances also do not establish that the deceased was a bonafide passenger. The tribunal held that the photo-copy produced by the claimants did not disclose whether the deceased



was traveling from Barh to Mokama or vice-versa. It did not disclose by which train the deceased was traveling. In the case of *Union of India v. Rina Devi, (2019) 3 SCC 572* the Apex Court has held that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bonafide passenger for which claim for compensation could be maintained. In the instant case it is evident from the final report prepared by the GRPF that the cause of death of the deceased was due to run-over by the train and not accidental falling. It is an admitted fact that the dead body of the deceased was found lying on the rail tracks. However, there is no proof of the fact that there was accidental falling from the train.

10. Thus, in light of the facts and circumstances in the instant case, I do not find the claimant/appellants reliance on the Apex Court's decision in *Rina Devi (supra)* to be helpful for the appellants. The claimant/appellants failed to establish the twin requirements for being eligible for compensation from the respondents, i.e. i. Bonafide passenger and ii. Untowards accident. There are no ocular evidences in the present case to support the claimant/appellant's that the deceased died due to accidental falling and thus it was an 'untowards accident'. The claimant's wife stated in her affidavit that when her deceased



husband did not return home, then she went to the place of occurrence after hearing about a dead body being found on the railway track near Mokama station. Further the postmortem report dated 22.12.2008 (Annexure A3) states that the death of the deceased occurred by reason of him being run-over by an unidentified train.

11. In light of the above findings, the claimants failed to prove that the death of the deceased was an untowards accident under Section 123(c) (2) of the Railway Act, 1989. As such, they are not entitled to receive any compensation from the respondent Railways. The findings of the claims Tribunal is correct to the extent that the claimants are not entitled to any compensation.

12. The present appeal is thus dismissed.

(Ramesh Chand Malviya, J)

Mayank/-

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