

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A No. 439 of 2015

1. Most Reena Kuwar(Devi), W/o Late Om Prakash Vishwakarma
2. Jawahar Vishwakarma, S/o Late Ganesh Vishwakarma
Both R/o Village/Mohalla-Rabda Tola Kewaloar, PO &PS-Chainpur,
District-Palamu **... Appellants**

Versus

Union of India represented through G.M. East Central Railway, PO
&PS- Hajipur **... Respondent**

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CORAM : SRI GAUTAM KUMAR CHOUDHARY, J.

For the Appellant(s): Mr. Rahul Kr. Gupta @ Rahul Gupta, Advocate

: Ms. Swati Singh, Advocate

For the Respondents: Mr. Ravi Prakash, CGC

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15/05.02.2025: Heard, learned counsel for the parties.

1. The claimants have preferred this appeal against the dismissal of the claim application vide order dated 28.04.2015 passed by Member (Technical), Railway Claims Tribunal, Ranchi Bench, in Case No. OA(IIU)/RNC/2010/0113.
2. Appellant Reena Kuwar is the widow of the deceased Om Prakash Vishwakarma (age 27 years), who died in a railway accident while travelling from Bangalore city to Garhwa Road on a valid 2nd class ticket having No. 69160378 dated 16.10.2007. The ticket was recovered from his possession and a photocopy of the said ticket was adduced into evidence.
3. The learned tribunal dismissed the claim application by disbelieving the copy of the railway ticket produced on behalf of the claimants. The only ground on which the ticket was not accepted and the deceased was held not to be a bona-fide passenger was that the said ticket dated 16.10.2007 was valid for journey from Bangalore city to Garhwa road whereas Tori station is about 100 kms after Garhwa road station, where the accident took place.
4. It is argued by the learned counsel on behalf of the appellant that the finding recorded by the tribunal is not factually or legally correct. It has been held by the Apex Court in **Union of India v/s Rina Devi, (2019) 3 SCC 572 and Jameela and ors. v/s Union of India, (2010) 12 SCC 443**, that the onus is not on the claimants to produce the valid tickets of the deceased and a claim application cannot be turned down on the ground that the said ticket was not produced.

5. It is also submitted that learned Tribunal erred on facts as well. As per the inquest report Ext.A3, the ticket was recovered from the possession of the dead body. Tori station lies in between Bangalore city to Garhwa road and it was factually incorrect to hold that Tori was 100 km after Garhwa station and not between Bangalore and Garhwa Road station.
6. The learned counsel appearing on behalf of the Respondent- Union of India has defended the impugned order. It is argued that compensation can be awarded only in a case where the bona-fide passenger suffered in a railway accident. There is finding of fact that the deceased was not a bona-fide passenger.
7. Considering the submissions made on behalf of both the parties, I find force in the arguments advanced on behalf of the appellants that the learned Tribunal committed an error in shifting the onus of disproving the bona-fide of the deceased on the claimants. This is more so for the reason that the photocopy of the ticket was produced which was found along with the body of the deceased.
8. The impugned order is accordingly set aside and as per ratio laid down in the judgment reported in **Union of India v/s Rina Devi, (2019) 3 SCC 572** the claimant(s) is entitled to get compensation of Rs. 4 lakhs along with interest @ 6% per annum from the date of claim application till its realization as per the old Act under section 124 A of the Railways Act, 1989.
9. **Accordingly, the Miscellaneous Appeal is allowed.**
10. Pending IAs if any, stands disposed of.

(GAUTAM KUMAR CHOUDHARY, J.)