

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.346 of 2015

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1. Pratibha @ Pratibha Devi and Anr Wife of Late Dr. Chandra Shekhar Prakash,
 2. Abhinava Prakash, Son of Late Dr. Chandra Shekhar Prakash (Minor under the guardianship of his mother Appellant No. 1) Resident of Mohalla - Indirapuri, Ashiana Road, P.S. - Shashtrinagar, District - Patna.

... .. Appellant/s

Versus

The Union Of India Through The General Manager Eastern Railway

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Alok Kumar @ Alok Kr Shahi, Adv.
For the Respondent/s	:	Mr. Mahesh Prasad, Adv.
For the Railways	:	Ms. Priya Gupta, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

13 19-02-2026 Heard Mr. Alok Kumar Shahi, learned counsel for

the appellant and Ms. Priya Gupta for the Railways.

2. The present appeal has been preferred:

*against the order dated 3.07.15
passed in claim application no M.A.
(OA)00016/2004 by the Hon'ble
Member(Technical), Dr B. Ray, and Member
(Judicial), R.K.Mittal, Railway claims
Tribunal, Patna bench by which the claim of
the appellants has been rejected.*

3. The case as per the appeal is that the appellant no.

1's husband, **Dr. Chandra Shekhar Prakash** (who was serving
with the Gujarat State Government) along with the family was
traveling from Patna to Jasidih on **09.03.2003** as they were



going to Deoghar for the Mundan Ceremony of son.

4. They boarded the **8621 (Patliputra Express)** on **09.03.2003** and as the family was alighting from the train at Jasidih, as per the case of the appellant, when the train started moving, due to the push, Dr. Prakash fell down and stuck between the train and the platform. The train stopped at the instance of the Guard, the husband was taken to Sadar Hospital, Deoghar where he breathed his last on the subsequent day (**10.03.2003**).

5. The father of the appellant no. 1, Dr. Birendra Kumar Sinha thereafter, lodged the FIR on **26.03.2003** with the Jasidih GRP (Deoghar). This led to UD **Case No. 08 of 2003**.

6. The final form was submitted on the very next day on **27.03.2003** after recording the appellants' version and recording that there is no mischief in the death, the case was closed.

7. Thereafter, the appellant preferred **M.A. (OA) 00016 of 2004 (Pratibha Devi & Anr. vs. the Government of India through the General Manager Eastern Railway Kolkata)** before the **Railways Tribunal, Patna Bench** (henceforth for short 'the Tribunal').

8. The matter was taken up by 'the Tribunal' and the



points for consideration that were formulated is/are as under:

(i) whether the death of the appellant's husband happened due to the accident that has been explained and whether it comes under the ambit of Section 123(C)(2) of the 1989 Act or not;

(ii) whether Dr. Chandra Shekhar Prakash was a valid passenger on 09.03.2003 in the Train No. 8621, Patliputra Express;

(iii) whether the application preferred is valid;

(iv) whether the appellants are entitled to any relief.

9. 'The Tribunal' after hearing the parties vide an order dated **03.07.2015** came to the conclusion that:

(i) the Railway GRP has not recorded any incident/accident on 09.03.2003 inasmuch as though it has recorded the accident that took place on 27.02.2003 and 25.03.2003, the memo book is silent on 09.03.2003;

(ii) the accident took place on 09.03.2003, the death happened on 10.03.2003, the GRP was never informed about it;

(iii) no valid ticket was provided to show that he was a bonafide passenger in the 8621 Patliputra Express on 09.03.2003;

(iv) no post-mortem was conducted and the FIR was lodged after a fortnight on 26.03.2003;

(v) even after the death at Sadar



Hospital, Deoghar, the affected parties failed to inform any Police Official. In that background, 'the Tribunal' came to the conclusion that the claimant do not come within the ambit of Section 123(C)(2), 1993.

(vi) the claim was thus negated.

10. Aggrieved, the present appeal.

11. Mr. Alok Kumar Shahi, learned counsel for the appellant submits that the medicine prescription shows that he was admitted on 09.03.2003 and death took place on 10.03.2003. The FIR lodged on 26.03.2003 talks about the accident followed by the death. Further, though the final form has been submitted on the very next day, it records the fact that the accident took place due to fall between the platform and the railway track.

12. The submission is that non-availability of railway ticket and/or not informing the Police Official and/or delay in lodging the FIR cannot be a ground to deny the relief to the claimants/appellants herein. He has also provided a document which shows that prior to 28.04.2014, when a new Station Manager took charge at the Jasidih railway station, there was no maintenance of untoward incident register. He submits that in that background, 'the Tribunal' erred in passing the order in question.

13. In support of his case, he has taken this Court to



an order of the **Hon'ble Apex Court in Kamukayi & Ors. vs. Union of India & Ors. (Civil Appeal No. 3799 of 2023)** with reference to **paragraph nos. 18 and 19** which read as follows:

18. Now, reverting to the issue whether the deceased was a bona fide passenger? In this regard, the ocular statement of AW1- Manikandan, son of the deceased, who procured a valid train ticket for travel from Lalapettai to Karur and handed it over to the deceased is on record. As per the statement of AW1, the averments made in the claim petition have been testified and even in the cross-examination, he has reiterated that ticket for deceased from Lalapettai to Karur was purchased for a sum of Rs. 10/- and sent him off at Station to go to Karur. The deceased fell down at Mahadanapuram Railway Station. The said averment of the claim petition and the statement of D. Ravisankar, Station Master finds support from inquest report prepared by the Inquest Officer on the date of incidence i.e. 27.9.2014 and the final report prepared by the Investigation Officer, Railway Police Station Trichy on 14.11.2014. The said reports have been referred to in the investigation report dated 7.6.2017. Considering the material brought on record, in our view, the initial burden that



the deceased passenger was having a valid ticket has been discharged shifting onus on the Railway Administration to disprove the said fact. Nothing has been placed before Claims Tribunal or brought on record during the course of hearing that the Railway Administration has discharged the burden of not having the valid railway ticket with the deceased passenger, except to say that during recovery ticket was not found. In absence of any cogent evidence, notwithstanding anything contained in any other law, the Railway Administration shall be liable to pay compensation as prescribed.

*19. In view of above discussion, we are of the considered opinion that as per law laid down by this Court in **Rina Devi** (supra), it is proved beyond reasonable doubt that deceased Muchamy @ Muthusamy died in an untoward incident which took place on 27.9.2014 while travelling in a passenger Train No. 5684 and he was a bona fide passenger. The findings adversely recorded by the Claims Tribunal and affirmed by the High Court are perverse, therefore set-aside. In our view, as per the provisions contained in Section 124A of Railways Act and Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, the appellants are entitled to claim*



compensation.

14. He submits that the aforesaid order of the Hon'ble Apex Court fully applies in the present case and the appeal is fit to be allowed as 'the Tribunal' erred in considering these facts while negating the claim of the appellants.

15. Mrs. Gupta represent the Railways. A counter affidavit has been filed, learned counsel submits that:

(i) there is no record about the said incident of 09.03.2003 in the Jasidih railway station;

(ii) the Sadar Hospital, Deoghar recorded severe pain in chest;

(iii) admittedly, the death took place on 10.03.2003 but neither the local Police was informed nor post-mortem of the deceased was conducted;

(iv) the FIR was lodged on 26.03.2003 not by the claimant/appellant but by the father-in-law of the deceased;

(v) the constable who the appellant claims to have taken her husband to the hospital was not examined or statement recorded;

(vi) in that background, 'the Tribunal' justifiably rejected the claim of the appellants;

16. The further submission with regard to the case of **Kamukayi & Ors.** (supra) is that a perusal of paragraphs 18 & 19 would show that there, the Hon'ble Apex Court came to the



conclusion that there was a fall while traveling in the passenger train no. 5684 on 27.09.2014 and in that background, the claim was allowed. However, in the present case, the railways have not only denied any such incident on 09.03.2003, even the appellants have failed to complete the chain and as such, the said order is not applicable in the present case.

16. Having heard the parties and perusing the records, this Court is in complete conformity with the submissions put forward by the learned counsel for the railways. The facts which cannot be ignored is/are that:

(i) the appellants claim that the accident took place on 09.03.2003 while they were alighting from the train no. 8621 (Patliputra Express) at Jasidih station;

(ii) there is no record in the railways regarding such incident though as per the record (incorporated by 'the Tribunal'), the incidents of 27.02.2003 and 25.03.2003 have been recorded;

(iii) admittedly, the death took place on 10.03.2003 and in that background, the least that was expected from the claimants/appellants is/was to inform the Police and get the post-mortem conducted. However, for the reasons best known, it was not done;



(iv) the FIR came to be lodged after a fortnight that too not by the appellants but by the father-in-law of the deceased and there is nothing on record to show that he was also part and parcel of the said journey;

(v) the very next day, the final form was submitted without recording the statements of the lady, the family members and/or the constable who allegedly took the deceased to the hospital and

(vi) last but not the least, despite the entire family members traveling in the train, not a single ticket was produced;

(vii) it has to be noted that the case of the appellants is/are that the entire family members were traveling by the train;

(viii) this Court thus records that the appellants failed to even create a chain;

(ix) in that background, 'the Tribunal' rightly negated the chain.

17. So far as the order passed by the **Hon'ble Apex Court in Kamukayi and others** (supra) case is concerned, there, the Hon'ble Supreme Court came to the conclusion that the claimants have proved the accident/fall from the train and in that background, the relief was granted. Here, not a single point has been put forward to prove the case and in that background, the aforesaid order in no way came to the aid of the appellants.



The appellant at no point of time has come anywhere close to create a chain warranting interference in the reasoned order dated 03.07.2015 passed by ‘the Tribunal’.

19. This takes the appeal to only one conclusion, it has to be dismissed. M.A. No. 346 of 2015 is dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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