

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1062 of 2016

Smt. Devanti Devi W/o Late Sanjay Kumar, Resident of Village- Aurangabad,
PO and PS- Aurangabad, Distt- Aurangabad Bihar.

... .. Appellant/s

Versus

The Union of India through the General Manager, East Central Railway,
Hazipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Advocate.

For the Respondent/s : Mrs. Parul Prasad, C.G.C.

Mr. Shailesh Anand, Advocate.

Mr. Aditya Anand, Advocate.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 10-09-2024

1. Heard learned counsel for the appellant as well as
the learned counsel for the respondent.

2. This Miscellaneous Appeal has been filed under
Section 23 of the Railway Claims Tribunal Act, 1987
(hereinafter referred to as “Act of 1987”) on behalf of the
appellant against the judgment dated 29.06.2016 passed by the
learned Member (Judicial), Railway Claims Tribunal, Patna
(hereinafter referred to as the “Learned Tribunal”), in Claim
Application No. OA 00255 of 2012, whereby the claim
application of the applicant for payment of compensation has
been rejected.

3. The brief facts of the case is that the deceased
Sanjay Kumar was having journey-cum-reservation ticket for



commencement of journey on 19.07.2012 from Anugrah Narayan Road Railway Station to Howrah Junction. The deceased alongwith his wife who is the applicant, his minor children and elder sister of his wife came at Anugrah Narayan Road Railway Station at the schedule time of departure of the train, namely, Dehradun- Howrah Express being Train No.13010 D. Since, the reservation ticket was not confirmed, the deceased made his mind to travel in general compartment which was over crowded as usual. The wife of the deceased with her children and sister boarded the train any how and the train started moving with sudden heavy jolt. The deceased who was boarding the train lost his balance and accidentally fell down from the moving train which resulted into his death on the spot due to the injuries sustained in the said untoward incident. The applicant along with her sister raised alarm and some passengers have pulled the chain, however, the train did not stop. The applicant and her sister got down from the train and managed to reach at the place of occurrence of the untoward incident. The applicant informed the family members about the said incident but before reaching there a memo had already been issued at 21:40 hours on 19.07.2012 by S.M. on duty at Anugrah Narayan Road Railway Station against the death of an unknown



passenger. However, subsequently the deceased was identified by them and thereafter inquest report was prepared on the next date i.e., 20.07.2012 as the incident took place in the night. On the basis of memo, U.D. Case No.30 of 2012 has been registered with Sonenagar GRPS, who after due inquiry submitted the final report stating that the case is of accidental death due to fall from the train.

4. The deceased had died leaving behind his wife who is applicant alongwith minor son, daughter and also his widow mother who are surviving dependents of the deceased. The father of the deceased predeceased him. The applicant filed claim petition bearing Claim Application No. OA 00255 of 2012 and claimed compensation of Rs.4,00,000/- alongwith 12% interest from the date of filing of claim petition till its realization.

5. On notice, the respondent-Union of India through General Manager, East Central Railway, Hajipur appeared and contested the same by filing the written statement. It is stated in the written statement that the deceased was not a *bona fide* passenger of the train and the applicant has no cause of action to file the case against the respondent. The Union of India has denied the claim of applicant and stated that the



applicant may be put to strict proof by documentary evidence and eye witnesses and prove her claim. It is further stated that the alleged injury is not under the ambit of Section 123 (c) of the Railways Act, 1989 and the claim is barred by the principle of estoppel, waivers and acquiescence.

6. The applicant has supported her case by filing the affidavit in evidence and stated that the said untoward incident occurred on 19.07.2012 at Anugrah Narayan Road Railway Station while boarding the train. She further stated that as the said reservation ticket was a waiting ticket and the same was not confirmed, as such, the deceased has made up his mind to travel in general compartment and while the deceased was boarding the train, it started moving with a sudden jolt and meanwhile, the deceased could not maintain his balance and accidentally fell down from the moving train and died on spot. She also stated that on the basis of memo, the GRPS, Sonenagar has registered a U.D. Case No.30 of 2012 and after inquiry, filed the final report stating that it is the case of accidental death on account of injuries sustained due to fall from the moving train. In her cross-examination the applicant stated that she was present at the time of occurrence. She further stated that the occurrence took place at Anugrah Narayan Road Railway Station.



She specifically denied the suggestion that her husband died in crossing the railway line.

7. In support of her claim, the applicant has also filed 10 documents (Ext.A-1 to A-10) which includes copy of GRP memo dated 20.07.2012 in U.D. Case No.30 of 2012 (Exhibit A/1), inquest report dated 20.07.2012 of deceased (Exhibit A/2), challan for use when a dead body is sent for examination (Exhibit A/3), copy of reserved train ticket (Exhibit A/4), photo copy of Police paper (Exhibit A/5), Final report dated 20.07.2012 of U.D. Case No.30 of 2012 (Exhibit A/6), copy of *post-mortem* report (Exhibit A/7), death certificate of deceased (Exhibit A/8), photo copy of dependency certificate (Exhibit A/9) and voter I.D. card of the applicant (Exhibit A/10).

8. However, no oral or documentary evidence has been adduced on behalf of respondent/Railways against the claim of applicant.

9. After considering the evidence and submissions of the parties, the Learned Tribunal vide judgment dated 29.06.2016 dismissed the Claim Application No. OA 00255 of 2012 on the main ground that the applicant had failed to prove that the deceased Sanjay Kumar had died in the accident on 19.07.2012.



10. Learned counsel for the appellant submits that the learned Tribunal failed to appreciate the documents on the record including the death certificate of the deceased. He further submits that the learned Tribunal failed to appreciate that the death certificate has been prepared on the basis of the date given in inquest report i.e., 20.07.2012 instead of 19.07.2012 and contended that mere minor discrepancies in certificates cannot be a ground to disbelieve the entire series of evidences placed on record. Thus, the learned Tribunal failed to consider the *prima facie* documents which confirm the death of deceased in untoward incident.

11. On the other hand, learned counsel for the Union of India (Railways) submits that learned Tribunal has rightly dismissed the claim application after considering the facts of the case. It is further stated that the appellant has not proved her case and there is no merit in the appeal filed by appellant and the same is liable to be dismissed.

12. The only question to be determined by this Court is, “*whether the learned Tribunal was proper in denying claim of appellant on the ground that the applicant/appellant failed to prove the death of her husband due to untoward incident on 19.07.2012 ?*”



13. In the present case, inquest report (Exhibit A/2) and *post-mortem* report of deceased (Exhibit A/7) read with final report (Exhibit A/6) of U.D. Case No.30 of 2012 shows that deceased Sanjay Kumar died due to falling from train while boarding at Anugrah Narayan Road Railway Station. The untoward incident cannot be doubted just because of discrepancies with respect to date i.e., 20.07.2012 instead of 19.07.2012, appearing in the inquest report and final report. The applicant has filed affidavit stating the relevant facts and discharged her initial burden but the Railways has not filed any document or evidence in rebuttal or denial of the claim of the applicant.

14. This Court in the case of **Rubi Kunwar vs. Union of India** reported in **2014 (3) PLJR 127** observed in paragraph no.32 and 33 to the effect that the provisions of Section 124-A read with Section 123 (c) is a beneficial piece of legislation. A death within a railway precincts would presumed to be a case of untoward incident unless proved to the contrary by leading evidence in support. The Hon'ble Supreme Court in **Union of India vs. Prabhakaran Vijay Kumar & Ors.** reported in **(2008) 9 SCC 527** also held that the provision for compensation in Railways Act is a beneficial piece of



legislation. The minor discrepancies in death certificate will not make a ground to deny the claim of applicant/appellant if other material in support of claim is available.

15. In view of the judgment in **Union of India vs. Rina Devi** reported in **(2019) 3 SCC 572** the initial burden of being *bona fide* passenger has been discharged by the applicant/appellant and the onus has been shifted on the Railway Authorities which has not been duly discharged by them. Since, death of the deceased is proved due to outcome of untoward incident thereby casting “Principle of Strict Liability” upon the Railways, as in case of **Union of India vs. Radha Yadav** reported in **(2019) 3 SCC 410** Hon’ble Supreme Court held that the deceased being *bona fide* passenger, the adequate amount of compensation may be awarded. Therefore, the learned Tribunal was not right in denying compensation to the respondent.

16. The Hon’ble Supreme Court in the judgment of **Rina Devi (supra)** held that death or injury in the course of boarding or de-boarding a train will be an ‘untoward incident’ entitling a victim to the compensation and the same will not fall under the proviso to Section 124-A merely on the plea of negligence on the part of victim as a contributing factor.



17. It is brought to the notice that after the date of accident and filing the claim application, Railway Accident and Untoward Incidents (Compensation) Rules, 1990 were amended w.e.f. 01.01.2017. In *Rina Devi (supra)*, the Hon'ble Supreme Court observed that whenever it is found that the revised amount of applicable compensation as on the date of award of the Tribunal is less than the prescribed amount of compensation as on the date of accident with interest, higher of the two amounts ought to be awarded on the principle of beneficial legislation. The Hon'ble Supreme Court concluded that the compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in the accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of award of Tribunal, the applicant will be entitled to higher of the two amounts.

18. The said judgment was further explained by Hon'ble Supreme Court in *Radha Yadav (supra)* and the said view was also affirmed by the Hon'ble Supreme Court in *Union of India vs. Dilip & Ors.* reported in 2019 SCC OnLine SC 2119 and *Kamukayi & Ors. vs. Union of India & Ors.* reported in 2023 SCC OnLine SC 642.



19. In view of the above discussions, the observation of the learned Tribunal contained in the impugned judgment and the contention of the Railway cannot be sustained. The claimant/appellant has proved that the deceased was a *bonafide* passenger and caused death due to falling from the train while boarding in general compartment which comes within the scope of “untoward incident”. In the instant case the deceased has not died due to the enumerated reasons envisaged under Section 124-A of the Act. Accordingly, the impugned judgment dated 29.06.2016 passed by the Learned Tribunal in Claim Application No. OA 00255 of 2012 is set-aside and the Miscellaneous Appeal stands **allowed**. Consequently, the claim application is also allowed.

20. The appellant is held entitled for compensation to the tune of Rs.4,00,000/- (Rupees four Lacs) along with interest @ 6% per annum from the date of incident till its realization. The amount of compensation be satisfied by the respondent/ Railway within a period of two months from the date of receipt/production of a copy of this order.

21. It is made clear that after applying the rate of interest, if the final figure is less than Rs.8,00,000/-, then the applicant shall be entitled to get compensation of Rs.8,00,000/-.



22. Pending application(s), if any, stand disposed

of.

(Sunil Dutta Mishra, J)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2024
Transmission Date	NA

