

Smt Guljari Devi Vs. Union of India Through the General Manager East Central Railway

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Court : Jharkhand

Decided On : Feb-15-2016

Appellant : Smt Guljari Devi

Respondent : Union of India Through the General Manager East Central Railway

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI M.A. No. 102 of 2014 Smt. Guljari Devi, W/o Late Jag Narayan Singh, R/o Village-Baswaria, P.O & P.S.-Kuchila, Dist.-Kaimur, Bihar Appellant Versus Union of India through the General Manager East Central Railway, Hazipur at Biscoman Bhawan, P.O-G.P.O Patna, P.S.-Gandhi Maidan, Dist.- Patna, Bihar Respondent ----- CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA ----- For the Appellant : Mr. Vijay Shankar Jha, Advocate For the Respondent : Mr. S.K. Lala, J.C to A.S.C, Railway, Advocate ----- 06/Dated:

15. 02/2016 This appeal is directed against the judgment and order dated 21.08.2013, passed by the learned Member (Techincal) of Railway Claim Tribunal, Ranchi in Case No. OA(IIU)/RNC/2011/0044.

2. Learned counsel for the appellant has submitted that the learned Tribunal has erred in law by holding that the incident resulting in death of the appellant's husband does not come within the definition of untoward incident in terms of

Section 123(c)(2) of the Railways Act, 1989. It is urged that it has been held by the Tribunal that the deceased- Jagnarayan Singh was a bonafide passenger and was travelling on a valid ticket from Rajendra Nagar (Patna) to Bokaro on train No. 8625, however the learned Tribunal has failed to appreciate the documents namely the F.I.R, post-mortem report, and final report which establish the fact that the deceased fell from the train resulting in injuries and as he came under the wheels of the train and his body was dissected in two parts. It is contended that the learned Tribunal has declined to award the compensation, on the ground that there are loopholes in the evidence of the claimant/applicant. That the Tribunal should have appreciated the fact that death of the deceased took place due to the injuries caused when he fall from the train. The contradictions in the testimony of the applicant-Guljari Devi is natural. She is the wife and it is evident that she is not an eye witness though she was a co-passenger. She has stated that her husband the deceased had left his seat and gone to the toilet. This fact has been also narrated in the final report as per investigation by the railway police. On the above grounds, it is argued that the judgment and order of the Tribunal is fit to be set aside and the appellant is entitled to the compensation in terms of Section 124A and Schedule of Rule 4 of the Railway Accident and Untoward Incident (Compensation) Rules, 1990. In support of the contention learned counsel has relied on the decision in the case of Union of India Vs. Prabhakaran Vijay Kumar reported in (2008) 9 SCC5273. Per contra learned counsel appearing for the respondent, Railways has submitted that though the deceased was a bonafide passenger travelling on the passenger train No. 8625, but it would be evident that the appellant/claimant, i.e. wife, has made contradictory statement regarding the manner of occurrence as she has stated that her deceased- husband was returning to his seat from toilet but due to sudden jerk jostling by passengers took place due to which her husband slipped and he fell down near Tupkadih, whereas in the same breath she has stated that she searched for her husband at Bokaro Railway Station but could not find him in the train and thereafter she informed her family members. Such contradictory statement does not establish the fact that her husband sustained injuries due to untoward incident resulting in his death. It is argued that there is no explanation as to why the claimant did not raise any alarm when such an accident took place. It is contended that it is amply clear that the

Station Master, of Tupkadih Railway Station, submitted the inquiry report, i.e. Ext.R-2, wherein Train Guard accompanying the train has categorically stated that there was no accidental fall near Tupkadih. In fact the train had a stoppage of 12 minutes at Tupkadih but no incident of a person falling from the train was reported neither there was any jerk in the train nor have the co- passengers reported about the incident. It is canvassed that in view of the evidence on record, the Tribunal has rightly held that the compensation cannot be awarded as it was not an 'untoward incident' as defined under Section 123(c)(2) of Railways Act, 1989.

4. Heard. Perused the impugned judgment and order. It is not in dispute that the deceased was travelling on the said train i.e. train No. 8625, Rajendra Nagar-Hatia Express having a valid ticket. He had boarded the train at Rajendra Nagar Station. The applicant/claimant was also travelling with him. Though there are contradictions in her statement, but this was natural as she was not an eye witness to the occurrence. As per the final report submitted by the Railway police it is explicit that the deceased died due to fall from the train and he came under the wheels of the train No.

8625. It is settled proposition that the provisions of Section 124(A) is a beneficial legislation and if the words used in a beneficial or welfare statute are capable of two construction the one which is more in consonance with the object of the Act and for the benefit of the person for what the Act was made would be preferred. The Tribunal has erred in analyzing the evidence meticulously as if he was conducting a criminal trial. The evidence in such case has to be evaluated on the basis of preponderance of probabilities. Untoward incident is defined under Section 123(c)(2) as accidental falling of any passenger from a train carrying passenger. The post-mortem report establishes the fact that the deceased died on account of fall from the train and his body was cut in two pieces. The final report submitted by the police corroborates the same.

5. Thus, in the facts and circumstances, the appellant is entitled to compensation of Rs. 4,000,00/- (four lakhs) i.e. the statutory liability under Schedule of Rule-4 of Rules, 1990 from the date of filing of the application, i.e. from 09.05.2011 till the date of the actual payment of the amount with interest @ 9%.

6. The respondent/Railways shall the pay the amount with interest @ 9% within three months from the date of receipt of this order, failing which it shall be liable to pay the interest @ 12% from the date of this order on the amount so accrued with interest.

7. In the result, this appeal stands allowed. (Amitav K. Gupta, J.) Satayendra/

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