

**Mrs Manati Devi and Ors Vs. The Union of India Through the General Manager East Central Railway Hazipur Bihar**

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**SooperKanoon Citation :** [sooperkanoon.com/70702](http://sooperkanoon.com/70702)

**Court :** Jharkhand

**Decided On :** May-05-2016

**Appellant :** Mrs Manati Devi and Ors

**Respondent :** The Union of India Through the General Manager East Central Railway Hazipur Bihar

**Advocate for Def. :** Mr. Vijoy Kumar Sinha

**Judgement :**

IN THE HIGH COURT OF JHARKHAND AT RANCHI M.A. No.42 of 2013 1. Mrs. Manati Devi, W/o Late Rajnath Saw 2. Binod Kumar Gupta, S/o Late Rajnath Saw 3. Bijay Kumar Gupta, S/o Late Rajnath Saw 4. Sonu Kumar Gupta, S/o Late Rajnath Saw All are resident of Village - Bhojpur, P.O. & P.S. - Nagar Untari, District - Garhwa, Jharkhand Appellants Versus The Union of India through the General Manager, East Central Railway, Hazipur, P.O. & P.S. - Hazipur, District - Hazipur (Bihar) ... Respondent ----- CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA ----- For the Appellants : Mr. Hardeo Prasad Singh, Advocate For the Respondent : Mr. V. K. Sinha, A.S.C (Railway) ----- th 11/Dated:

05. May, 2016 This appeal has arisen out of the

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dated 12.10.2012, passed by the learned Member (Technical), Railway Claims Tribunal, Ranchi (herein after referred as 'Tribunal'), in case no.OA/(IIU)/RNC/2009/0029 whereby, the claim of the claimants/ appellants, was rejected.

2. The appellants/ claimants are the widow and sons of the deceased Rajnath Saw, who died on 02.12.2008 on account of the injuries sustained as he fell down while trying to board Train no.4371 DN, Berali-Barbadi Triveni Link Express, at Nagaruntari Station. It is submitted by the learned counsel that there is evidence on record that the deceased Rajnath Saw fell down while trying to board the train and sustained grievous injuries and was taken to Referral Hospital Nagaruntari, where he was declared dead. It is argued by the learned counsel that the learned Railway Claims Tribunal, Ranchi has held that the deceased was a bonafide passenger having a valid ticket but the Tribunal has erred in law in denying the claim on the reasoning that the deceased fell down and lost his life due to his own negligence, hence, the railway authorities are not liable to pay the compensation as the death of the deceased comes within the exceptions 'a' to 'e' of the proviso of Section 124A of the Railways Amendment Act, 1994. It is contended that the Tribunal has not considered the evidence of the witnesses, who have categorically stated that the deceased fell down while trying to board the train. - 02 - It is urged that falling down while boarding the train is an 'untoward incident' as defined under Section 123(c)(2) of the Railways Act. In support of his contention, learned counsel, has relied on the decision in the case of Union of India Vs. Prabhakaran Vijaya Kumar reported in (2008) 9 SCC527 It is argued by the learned counsel that the impugned order/ judgment is fit to be set aside and the claimants- appellants are entitled to the compensation under Section 124A of the Railways Act.

3. Mr. Vijoy Kumar Sinha, learned counsel for the respondent-Railways, has contended that it would be evident from the impugned judgment that the Tribunal has considered Ext. R-16, i.e., the report of the Station Manager, Nagar Untari wherein it has been categorically stated that the passenger (since deceased) was attempting to board the running train, therefore the injuries sustained due to fall while trying to board a running train was a result of a criminal act and negligence on the part of the deceased and the injuries sustained due to the fall were self inflicted, resulting in his death which is covered under clauses (b) and (c) of the

exceptions to the proviso of Section 124A of the Railways Amendment Act, 1994. It is argued that in the attending facts and circumstances of the case the Railway administration is not liable to pay the compensation as claimed by the appellants/claimants. It is argued that the impugned judgment/ order does not suffer from any illegality or infirmity meriting any interference by this Court.

4. Heard. On perusal of the impugned

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it is admitted by the respondents that the deceased was a bonafide passenger in terms of the definition of Section 2 (29) of the Railways Act. The Tribunal has relied on the statement (Ext. R-1) of D.C.M, annexed with the written statement of the respondent, wherein it is narrated that the deceased was attempting to board the running train. This also finds mention in Ext. - R-16, the report of Station Manager Nagar Untari who was informed about death of a passenger who fell down while trying to board a running train. Tribunal has also relied on Ext. - R-15, the memo to Sr. D.C.M and the investigation report Form - 1, (Ext. R-5). - 03 - 5. It is abundantly clear that the findings of the Tribunal are based solely on the documents of the railway administration and it has not considered the evidence of A.W.-2, Ishwari Yadav, who has categorically stated that the deceased slipped while trying to board the train. He has been cross-examined by the respondent and he has stated that the deceased was trying to board the train which suddenly started to move and the deceased slipped and fell down. A.W. - 2 has stated that he tried to rescue the deceased. His statement is supported by A.Ws. - 1 & 2, the son and wife of the deceased who have stated that they were informed by A.W. - 2 regarding the fall of the deceased while he was trying to board the train. In explanation (ii) of Section 124A, it has been stated that a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident, comes within the meaning of passenger. In the case of Prabhakaran Vijaya Kumar (Supra) it has been held that the provisions of Section 124A is a beneficial piece of legislation, and purposive interpretation should be given for achieving the intent and object of the law and the interpretation which serves the purpose and object of

the provisions should be preferred considering that it is a beneficial legislation. It is settled proposition that Section 124A provides for strict liability or no fault liability and if a case comes within the purview of Section 124A it is wholly irrelevant as to who was at fault, as held by the Supreme Court in the case of Prabhakaran Vijaya Kumar (Supra).

6. The burden lies of the Railway administration to establish and prove the fact that the death of a passenger, took place on account of injuries which were self inflicted or due to criminal act or was a case of suicide or the deceased was in a state of intoxication or the injuries resulting in death occurred due to an act of insanity. It is evident that the Railway administration has not been able to prove that the death of the deceased comes within the purview of exceptions as enumerated in clauses (a) to (e) of the proviso of Section 124A for escaping the liability to pay the compensation. On the contrary as evidenced A.W. - 2 has stated that the deceased was trying to board the stationary train and he - 04 - slipped because the train started moving suddenly. The deceased might have been negligent but such negligence cannot be qualified as a criminal act neither can the injury sustained be classified as self inflicted or suicidal. The 'accidental fall' from the train can be while a passenger is travelling in the train or when he is trying to board a train as has been held in the case of Prabhakaran Vijaya Kumar (Supra). From the material on record, this Court has no hesitation in reaching to the conclusion that the death of the deceased was on account of the injuries sustained due to fall while trying to board the train and this is an 'untoward incident' in terms of the definition under Section 123(c) and under Section 124A and it is the statutory liability of the Railway administration to pay the compensation.

7. In the result, the impugned order dated 12.10.2012 is hereby set aside and the respondent-railway authorities are directed to pay compensation of Rs.4,00,000/- (Rupees four lakhs) with interest @ 9% per annum from the date of filing of the application till the date of payment.

8. With the said direction and observation, this appeal stands allowed. (AMITAV K. GUPTA, J.) Chandan/-