
(2012) 09 PAT CK 0054
In the Patna High Court
Case No : Misc. Appeal No. 905 of 2010

Kanti Singh and Others

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 14-09-2012

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 16, 23
Railways Act, 1989 — Section 125

Citation : (2012) 4 PLJR 982

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Advocate : Krishna Mohan Murari, for the Appellant;

Final Decision : Allowed

Judgement

Rakesh Kumar, J.—Heard the parties. The present appeal u/s 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as "the Act"), has been preferred against order dated 13.8.2010, passed by Railway Claims Tribunal, Patna Bench, Patna, (hereinafter referred to as "the Tribunal"), in Claim Case No. OA00023 of 2000. The learned Tribunal by the said order has rejected the claim petition preferred u/s 125 of the Railway Act, 1989 read with Section 16 of the Railway Claims Tribunal Act, 1987, on behalf of the appellants claiming compensation of Rs. 4,00,000/- on the ground that husband of appellant no. 1 namely, Uma Kant Singh died in an untoward incidence. Appellant No. 1 is the wife of deceased and appellant nos. 2 and 3 are son and daughter respectively of the appellant no. 1.

2. It was pleaded that husband of the appellant no. 1 while coming from Lucknow to Kiul on a valid Railway Ticket, fell down on the railway track at Kiul Junction due to heavy rush and jerk and received grievous injuries. The deceased was traveling on Howrah-Amritsar Express, Train No. 3050 alongwith Kishori Singh and Sri. Asarfee Singh. After the accident he was initially treated at Railway Hospital, Kiul. However, keeping in view seriousness of the injuries, the

Railway Hospital referred the injured to another Hospital for better treatment. Immediately thereafter, while he was being shifted to another Hospital he died, and as such, in presence of Sri. Kishori Singh on the dead body of deceased inquest report was prepared. On inquest report Kishori Singh and Asarfee Singh, both the co-passengers of deceased, had put their signature and thumb impression respectively. A U.D. case was registered vide U.D. Case No. 3 of 1999 on 7.2.1999 at Railway Police Station, Kiul. The dead body was sent for post mortem examination and after conducting post-mortem examination the dead body was handed over to the relatives of the deceased. Since the bread-earner of claimants died in Railway accident, the claim petition was presented on 7.2.2000. Before the Tribunal besides filing affidavit duly sworn by the appellant no. 1 and co-passenger Kishori Singh, the claimants produced number of documentary evidences such as Inquest Report (Exhibit-A3), post Mortem Examination Report (Exhibit-A4), Dead Body Challan (Exhibit-A5), Photocopy of Rail Ticket (Exhibit-A6), Death Certificate (Exhibit-A7) etc. Before the Tribunal, on behalf of Eastern Railway, a written statement was filed. Besides filing written statement no other material/evidence was produced on behalf of the Railway. The learned Tribunal after hearing the parties by the impugned order has rejected the claim petition.

3. Sri. Krishna Mohan Murari, learned counsel for the appellants, submits that the Tribunal has grossly erred in rejecting the claim petition mainly on the ground of non-availability of Railway Ticket and non-mentioning of fact regarding recovery of Railway Ticket from the person of the deceased in the inquest report i.e. Exhibit-A3. He submits that before the Tribunal a petition was filed on behalf of the claimants for summoning final report submitted by the Police, in connection with U.D. Case No. 3 of 1999 and original ticket of deceased having no. A05156890 dated 6.2.1999, which was in relation to a journey from Lucknow Junction to Kiul Junction, as well as two other original tickets of co-passengers which were seized by the concerned G.R.P. The Tribunal had also issued direction for summoning those documents, but it was never produced by the concerned G.R.P. He submits that in a claim petition particularly in a case where husband of claimant had died, the learned Tribunal was required to take lenient view in the matter. On the basis of evidences brought on record, the learned Tribunal was required to accept the claim petition and allow compensation. He further submits that the co-passenger namely, Kishori Singh, due to old age and ailment, was not in a position to appear before the Tribunal for his cross-examination, and as such, petition was filed by the claimants for examining him on commission, which fact has been noticed by the learned Tribunal in the impugned order. In the affidavit of Kishori Singh, which has been marked as Exhibit-A2, entire picture has been elaborately mentioned. He submits that Kishori Singh was traveling with the deceased alongwith one another person from Lucknow to Kiul Junction and in his presence ticket was purchased by the deceased. He submits that only on the ground that in the inquest report ticket no. was not mentioned, the claim petition was not to be rejected.

4. Learned counsel appearing on behalf of respondent/Union of India through General Manager, Eastern Railway has tried to justify the impugned order. It was argued that the deceased was not a bona fide passenger, since from the person of the deceased no Railway Ticket was recovered and said fact has been mentioned in paragraph no. 7 of the inquest report. He has also argued that the claimant/appellant no. 1 was not an eye witness. Except claimant witness no. 1, the claimants had not bothered to produce any other witness in support of the claim, and as such, the learned Tribunal has rightly rejected the claim petition.

5. Besides hearing the parties, I have also perused the materials available on record. Fact remains that before the Tribunal the claimants had brought on record photocopy of the Railway Ticket which was purchased by the deceased. It was asserted that the said ticket was seized by the concerned G.R.P., and due to the said reason, a specific prayer was made by filing a petition for summoning original Railway Ticket from the concerned G.R.P. Besides this, the statement on oath i.e. affidavit of the co-passenger namely, Kishori Singh, is already on record, which depicts each and every fact to corroborate that the deceased was a bona fide passenger. Merely on the ground of non-mentioning of ticket in the inquest report was not sufficient to deny the claim. After going through the materials on record and after hearing the parties, the court is of the opinion that learned Tribunal has not correctly appreciated the evidence and material on record, and as such, the impugned order is hereby set aside and the appeal stands allowed, with a direction to the respondent to pay the compensation amount of Rs. 4,00,000/- alongwith interest at the rate of 6% from the date of filing of the claim petition till the date of payment in compliance with the order of this court. Respondent is directed to pay the compensation amount along with interest to the appellants within a period of two months from the date of receipt/production of a copy of this order.