
(1997) 09 PAT CK 0054
In the Patna High Court
Case No : A.F.O.O. No. 284 of 1991

Tunu Choudhary

APPELLANT

Vs

Union of India(UOI)

RESPONDENT

Date of Decision : 18-09-1997

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23

Railways Act, 1890 — Section 82A

Workmens Compensation Act, 1923 — Section 2(1)

Citation : (1998) 46 BLJR 408 : (1998) 79 FLR 121 : (1999) 3 LLJ 500

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : Shivendra Kishore, for the Appellant;

Final Decision : Dismissed

Judgement

Gurusharan Sharma, J.—This appeal u/s 23 of the Railway Claims Tribunal Act, 1987 has been preferred by the claimant-appellant against the order dated July 31, 1991 of the Railway Claims Tribunal, Patna, dismissing the claim application of the claimant-appellant.

2. On June 25, 1990, Tunu Choudhary, the claimant, a resident of Mohalla-Balwatikar, Police Station of Daltanganj, District-Palamaru alongwith his wife Malti Devi and three minor daughters, namely, Asha Kumar, Nilam Kumari and Jyoti Kumar boarded 1 Up Gaya-Garhwa-Road-Chuna Passenger train at Gomia railway station. The said ill-fated train met an accident at Mangra railway station, resulting into the death of one of the daughters, namely Jyoti Kumari alias Rinki Kumari.

3. The appellant filed claim petition u/s 82A of the Indian Railways Act, 1890 for compensation for the death of his minor daughter Jyoti Kumari alias Rinki Kumari in the said accident.

4. The railway administration in reply neither admitted death of Jyoti in the

accident in question nor her to be a bona fide passenger.

5. No evidence regarding death of the aforesaid daughter of the claimant was brought on record on his behalf. Even the post-mortem examination report held on the dead body of deceased Jyoti Kumari alias Rinki Kumari was not produced. Her death certificate was also not filed.

6. Admittedly the deceased daughter of the claimant was six years old. Her parents were not dependent on her earnings either wholly or even in part.

7. The provision of Section 2(1)(d)(iii)(b) of the Workmen's Compensation Act was made applicable for compensation in the matter of railway accident under the Indian Railways Act, 1939, which was applicable on the date of the accident in question.

8. Admittedly, neither the deceased had any personal earning nor there was any occasion for the claimant not be dependent on her earnings.

9. The claimant-appellant was, therefore, rightly held by the Tribunal not entitled to any compensation of his six years old daughter's death if any, in the accident concerned.

10. This appeal is also covered by the decision of this Court in M.A. Nos. 64 and 67 of 1991, disposed of on September 17, 1997.

11. In the result the Appeal fails and is dismissed, but without cost.