

(2010) 12 PAT CK 0064

In the Patna High Court

Case No : Miscellaneous Appeal No. 370 of 2008

Union of India (UOI) and Others

APPELLANT

Vs

Sanjhali Murmur

RESPONDENT

Date of Decision : 07-12-2010

Acts Referred:

Citation : (2011) 59 BLJR 166

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anjana Prakash, J.—The Appellant is aggrieved by the judgment and decree dated 12.3.2008 passed by the Railway Claims Tribunal 1, Patna directing the Respondent General Manager, North Frontier Railways, to pay a sum of Rs. 4,000,000/- to the Respondents Sanjhali Murmur and her husband Munshi Hansda being dependent of the deceased. The Claims Tribunal after holding that the son of the claimant was a bona fide passenger who had died in an untoward incident on account of having thrown off from the train when there was a heavy rush awarded a sum of Rs. 4,00000/- as compensation to his parents.

2. The Appellants contends that in fact the deceased was not a bona fide passenger since the number of the tickets are at variance with the one produced before the tribunal and in fact the deceased had died on account of self-inflicted injury and, therefore, the Railways was not bound to compensate the claimants. The learned Counsel for the Appellant further contends that exhibit-A which is the guard memo clearly dislodges the case of the claimants that it was an untoward incident, in as much as, it has noted that the deceased had fallen down from the train. Further submission is that out of the four witnesses examined one was not cross-examined and rest three given contradictory statements with regard to the vital information regarding the identity of the deceased.

3. On the other hand, the learned Counsel for the Respondent submits that the

issues which were to be decided that in fact the deceased had died on account of an accidental fall caused by the Railways that he was a bona fide passenger and the claimants were dependent, has rightly been decided.

4. On going through the records of the case, I find that the guard memo is undoubtedly a hearsay piece of evidence and the source of the same has not been disclosed. Therefore, to hold that the deceased had fallen down while getting down from the train just on the basis of this document would be too far fetched. As against this there are two eye witnesses who have deposed that the deceased while traveling on the train had been thrown off the train and lost his life because of the excessive crowd. In this situation there cannot be any manner of doubt that the occurrence was indeed an "untoward incident" and, therefore, the deceased was liable to be compensated. Where the identity of the deceased is concerned the fact that he has been mentioned as a resident of Bastaul in the guard memo has no meaning since once again the source from where this information was derived has not been disclosed. Furthermore the inquest report which was prepared after the accident clearly describes the full particulars of the deceased and his area of residence. As for the contradictions in the cross-examination of the witnesses is concerned, I find they are very trivial in nature which would not turn the result of the case.

5. In view of such, I find no merit in the appeal. The appeal is dismissed.