

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Misc. Appeal No. 47 of 2013

1. Smt Chitra Chakraborty
2. Sri Joydeep Chakraborty
3. Koyel (Roy) Chakraborty

.... Appellants

Versus

Union of India through General Manager,
South Eastern Railway, Garden Reach, Kolkata ... Respondent

Coram : HON'BLE MR. JUSTICE D.N. UPADHYAY

For the petitioner/ appellant (s): Mr Rahul Kumar Gupta

For the opp. party/ respondents : Mr. Ram Nivas Roy.

30.04.2014 Heard.

This appeal has been preferred against the judgment and order dated 20.11.2012 passed by the Railway Claims Tribunal, Ranchi, in Case No. OA(IIU)RNC/2010/0189, whereby the application for grant of compensation filed by the appellants has been dismissed.

2 Facts of the case, in brief, is that on 27.12.2009, Timir Baran Chakraborty (deceased) with his wife, boarded Train No. 2812 (Steel Express) in Class 2-S at Howrah Station to come to Tata Nagar. He was having valid E-ticket (PNR No. 6136132395). It is contended that when the train reached Tata Nagar, his wife tried to find out her husband, but he was not found in the compartment. The applicants made a search, but could not find him and on the next day (28.12.2009), dead body of the deceased was found lying near Salgajhuri Railway Crossing and he was having injuries on his body. Accordingly, the matter was reported and the case was registered; inquest was made and *post mortem* was done. On account of death of the deceased, the applicants filed application for grant of compensation under section 124A of the Railways Act, 1989, read with the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990, but it was rejected and, hence this appeal.

3 It is submitted that the deceased was travelling in the Steel Express on valid ticket which is not disputed by the respondent railway. As a matter of fact, as per the report, the train reached Tata Nagar at about 23.25 hrs. The deceased had gone to toilet. The door of the compartment was open and due to jerk and jolt, he fell down and sustained injuries. The tribunal has wrongly refused to grant compensation on the ground that neither the wife of the deceased, nor other passengers travelling in the compartment raised any alarms after the incident. The tribunal has rejected the claim application on the ground that according to

the son of the deceased the incident had taken place at about 9.00 p.m. but according to railway report, the train reached Tata Nagar at 11.25 hrs.

4 Learned counsel for the appellants has challenged the findings on the ground that the Railway did not adduce evidence and the tribunal has rejected the claim application merely on conjecture and surmises. It is further pointed out that the tribunal has wrongly held that Timir Baran Chakraborty died due to self-inflicted injuries. There is no evidence on record to show that the deceased died due to self-inflicted injuries or committed suicide.

5 Learned counsel for the respondent has opposed the arguments but failed to furnish cogent grounds to disallow this appeal.

6 I have gone through the judgment impugned and the relevant documents placed before me. It is not disputed that the deceased with his wife was travelling in Steel Express on 27.12.2009 and he fell down from the train when it left Salgajhori Railway Station. The appellants have made out a case that the dead body was not found on the date of incident (27.12.2009); rather, it was found lying at the railway crossing on 28.12.2009 at Salkhajori railway crossing and after the dead body was recovered, UD case was registered by the GRP, and formalities like preparation of inquest and post mortem was done. The ground on which the tribunal has refused to grant compensation is apparently not sustainable.

7 In the result, the respondent railway is directed to pay rupees four lakhs to the appellants as compensation against death of the deceased. The compensation amount would be paid by the respondents with interest @ 6% per annum from the date of filing of the application.

This appeal is allowed.

Ambastha/-

(D.N.Upadhyay,J.)