

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**(Civil Miscellaneous Appellate Jurisdiction)**

**M.A. No.72 of 2018**

1. Smt. Parwati Devi, aged about 56 years, widow of Ramdeb Raut, resident of Village/Mohalla H.No. 25, Ramsagar, PO and PS Deoghar, District Deoghar.

2. Chhotelal Raut, aged about 32 years, son of deceased Ramdeb Raut, resident of Village/Mohalla H.No. 25, Ramsagar, PO and PS Deoghar, District Deoghar.

3. Badelal Raut, aged about 33 years, son of deceased Ramdeb Raut, resident of Village/Mohalla H.No. 25, Ramsagar, PO and PS Deoghar, District Deoghar. .... ... Appellants

Versus

The Union of India through the General Manager, Eastern Railway, 17 Netaji Subhash Road, PO & PS Netaji Subhash Road, Dist. Kolkata, PIN 700001. .... .... Respondents

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**PRESENT**

**CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND**  
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For the Appellants : Mr. Vijay Shanker Jha, Advocate  
For the Respondent/UOI : Mrs. Nitu Sinha, CGC

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**JUDGMENT**

**CAV On 28<sup>th</sup> February 2024**

**Pronounced on 12th April 2024**

The instant miscellaneous appeal has been directed against the award dated 05.05.2017 passed by the learned Member (Judicial) Railway Claims Tribunal, Ranchi in Claim Petition No. OA(IIU)/RNC/130/2016 under section 124(A) of the Railways Act, 1989 whereby the claim

petition of the appellant was dismissed.

2. The brief facts leading to this Miscellaneous Appeal are that the claimant Parwati Devi had moved the claim petition before the learned Tribunal with these averments that on 03.05.2014 her husband Ramdev Raut (deceased) was travelling Jasidih to Jhajha by Train No. 18181 UP, Tata- Chapra Express having a valid second class railway ticket. Her husband boarded in the train when it was stationary. As soon as the train began to move her husband accidentally fell from the running train due to the overcrowded pressure and the sudden jerk at Jasidih Station consequently died on the spot. The police has also registered a case UD Case No.12/14 on 03.05.2014. Deceased on the date of the death was 62 years old. He was labourer and after his death he left his widow Parwati Devi, the claimant herein and two sons Chhote Lal Raut and Bade Lal Raut. In view of the above claimed the compensation of Rs.4,00,000/- alongwith Advocate fee, cost of the petition and penalty interest @ 15% per annum. Alongwith this claim petition, the application under section 17(2) Railway Claim Tribunal Act was also moved on behalf of claimants.

3. On behalf of opposite party Union of India through GM, Eastern Railway the written statement was filed with these averments that the claim petition is not maintainable. The averments of the claim petition were also denied and it is stated that as per allegations made in the *fardebayan* deceased was selling *Litti-Chatni* in the train having no valid permit or licence. As such the deceased was not a *bona fide* passenger in the train whereby the said accident was caused. The copy of the memo dated 03.05.2014 issued by Station Master, Jasidih does not establish that

the deceased fell down from the running train. The inquest report annexed with the claim petition is silent on the recovery of any ticket. Para-4 of the claim petition is contradictory to the *fardebayan* hence the entire claim petition is doubtful and denied. Informant who is the son of the deceased has also not seen the alleged incident as would be apparent from the *fardebayan* itself. With respect to ticket the applicant is put to strict proof about the same as there being no such mention of the railway ticket in the inquest report. The arrival time of the train 18181 UP, Tata-Chapra Express at Jasidih Railway Station is 3:45 AM but it appears from the *fardebayan* that the alleged incident occurred at 9:00 AM on 03.05.2014 thus above both the facts are contradictory. The applicant is put to strict proof of the claim and also that the deceased did not die due to Exception-A to the Exception-E of Section 124A of the Railway Act. The applicant is also put to strict proof that the deceased was *bona fide* passenger of the said train. In view of the above prayed to dismiss the claim petition.

4. On behalf of claimant in support of the claim petition in documentary evidence filed the inquest report, the letter issued to the Medical Officer, Sadar Hospital, Deoghar by the Sub-inspector, Railway Police, Station Jasidih, *Fardebayan* Exhibit-A/3, Id Card issued by Election Commission of India of Chhotelal Raut, photo copy of Adhar Card of Badelal Raut, Photo copy of the Adhar Card of Parwati Devi, ID card issued by Election Commission of India of Ramdev Raut, photo copy of the bank account of Parwati Devi and heir certificate of Ramdev Raut after his death on 03.05.2014.

5. In oral evidence **AW1-Parwati Devi** was examined.

6. On behalf of respondent in documentary evidence filed letter of Sr.DSC/RPF/ASN dtd:24.2.17-Ext.RI, ADRM's report- Ext.R2, Report of ASI/RPF/Post Jasidih-Ext.R3, Extract of SM diary (photo copy), Enquiry Report of ASI/RPF/Jasidih-Ext. R4, Final Report-Ext.R5, FIR-Ext.R6, *Fardbeyan* of Barelal Raut-Ext.R7, PM report-Ext.R8, Memo of SM/Jasidih-Ext.R9, Extract SM Diary (Photo copy), Report of untoward incident-Ext.R10, Brief particulars of untoward incident-Ext.R11 and Brief particulars of untoward incident-Ext.R12 and no oral evidence was adduced on behalf of respondent.

7. The learned Tribunal firstly allowed the application for condonation of the delay of preferring this claim petition.

8. The learned Tribunal on the basis of pleadings of the parties framed following issues:

1. Whether Ramdev Raut is a bonafide passenger as alleged?

2. Whether any untoward incident as defined under section 123(c)(2) of the Railway Act, 1989 occurred to him while travelling by 18181 Tata-Chapra Express From Jasidih to Jhajha on 03.05.2014?

3. Whether the applicants are entitled for the compensation as claimed and other relief, if any?

9. The learned Tribunal decided the issue no.1 and 2 together and found that the deceased Ramdev Raut was not a *bona fide* passenger and consequently, dismissed the claim petition by passing impugned award.

10. Aggrieved from the impugned judgment the instant miscellaneous appeal has been preferred on behalf of the appellants/claimants on the ground that the impugned award is against the

weight of the evidence on record. The learned Tribunal has passed the said award on the surmises and conjectures. The learned Tribunal has failed to appreciate the settled law as laid down by the Hon'ble Apex Court that in case where there are two possible interpretation, the interpretation which serves the purpose of the claim petition is to be accepted leaving out the interpretation which may frustrate the claim case. There is no controversy over the death of Ramdev Raut in train accident. While from the oral evidence this fact has been proved that the deceased was travelling having a second class ticket as such was *bona fide* passenger. The respondent has not adduced any contrary evidence in rebuttal of the evidence adduced by the claimants. In the written statement of the respondent, nothing is mentioned that deceased was selling *Litti-chokha*. The cause of death in postmortem report also corroborates the averment made in the claim petition. The learned Tribunal has wrongly disbelieved the exhibited document adduced on behalf of the claimants/appellants.

11. I have heard the learned counsel for the parties and perused the material on record.

12. For disposal of this miscellaneous appeal following **point of determination** is being framed:

**Whether Ramdev Raut (deceased) was the *bona fide* passenger and the untoward incident occurred while he was travelling by the train 18181 Tata-Chapra Express From Jasidih to Jhajha on 03.05.2014, if so its effect?**

12.1 On behalf of the claimant in oral evidence claimant **Parwati Devi** was examined. In her examination-in-chief in the affidavit this

witness has stated that on 03.05.2014 her husband purchased a second class unreserved railway ticket from Jasidih to travel for Jhajha by 18181 Tata-Chapra Express. The said train was over crowded her husband boarded the said train when it was stationary as soon as the train took motion her husband could not control his body from the pressure coming from the inside passengers and fell from running train and succumbed to injuries instantaneously. After his death her husband left his widow the claimant Parwati Devi 51 years old and two sons Chhotelal Raut 32 years old and Badelal Raut 33 years old respectively. This witness in cross-examination has stated that **she has not seen the occurrence. Therefore, the testimony of this witness is based on hearsay evidence.**

12.2 On behalf of claimant the inquest report is also filed and also the *fardebayan* on which the case crime number was also registered. The copy of the *fardebayan* is the attested true copy. The same is also admitted to the opposite parties which is Exhibit-A/3. From the very perusal though this *fardebayan* has not been proved by producing in evidence Bade Lal Raut yet this document being admitted to both the parties it becomes admissible in evidence. From the very perusal of this *fardebayan* it is found that Bade Lal Raut the son of late Ramdev Raut had given the written information with the police station concerned with these allegations that his father Ramdev Raut used to sell *Litti-Chatni* at Jasidih Railway Station by roaming in all the railway trains. At 9 O'clock in day time, when Train No. 18181 Tata-Chapra Express Train which was to go to Chapra came at Jasidih Railway Station Platform No.1, his father was also selling *Litti-Chatni* in the said train. In the meantime, the train moved and his father

started to board in the running train to sell the *Litti-Chokha* he slipped and fell down whereby his whole face, hands and legs were injured. His left leg was also amputated and he died on the spot. He or his father was having no license or permit to sell *Litti-Chokha* in the train. On this written information GRP/Jasidih UD Case No.12 of 2014 was registered on 03.05.2014. **From the very contents of this written information which was given by the son of the deceased namely Bade Lal Raut, it is found that on the very date of said accident the husband of the informant was selling *Litti-Chatni* in all the trains at the Railway Station Jasidih and on 03.05.2014 he also boarded in the said train to sell *Litti-Chatni* as he slipped from the running train and sustained multiple injuries and died. The husband of the claimant and the father of the informant was also not having any license or permit to sell *Litti-Chatni*.** The inquest report of the deceased is also on record Exhibit-A/1. From the very perusal of the same, it is found that the deadbody of deceased was found from Jasidih Railway Station Platform No.1 at 9:30 AM on 03.05.2014. The body was shattered. The head was also amputated. The hands and legs were also amputated. **The cause of death is shown that the deceased while boarding in train Train No. 18181 UP Tata-Chapra Express fell down and died.**

12.3 On behalf of respondent-opposite party in oral evidence no one was examined but in documentary evidence has been adduced the letter dated 24.02.2017 Exhibit-R/1 which is addressed by Sr. Divisional Security Commissioner, RPF Eastern Railway Asansol addressed to Chief Commercial Manager in which it is stated that the investigation report

duly approved by ADRM/ASN has been referred. The inquiry report is also Exhibit-R/2 and Exhibit-R/3. Exhibit-R/4 is the inquiry report given by Manoj Kumar, Sub-inspector RPF Post Jasidih. In this enquiry report Exhibit-R/4 it is stated that the son of deceased Bade Lal Raut had given the written information which was registered as UD Case No. 12 of 2014 on 03.05.2014. In which the inquiry was conducted. The deadbody was identified by the son of the deceased Bade Lal Raut. The memo of the photo copy of the documents handed over by the Station Manager, the final inquiry report, inquest report, statement given by the son of the deceased, FIR, postmortem report, entry made in general diary are on record. **From the very perusal of the same it is also stated that deceased fell down from the running train Train No. 18181 UP Tata-Chapra Express and died there. He was having no ticket or no authority letter to sell the *Litti-Chokha* in the train. He was not *bona fide* passenger. He was vendor of *Litti-Chatni* in the train but have no authority for the same.** With this inquiry report all the contents are mentioned. Exhibit-R/5 is the accident report of the deceased which corroborates the averment made in the inquiry report. Exhibit-R/6 is also in regard to the cause of death. Exhibit-R/7 is the written information/*Fardbeyan* given by Bade Lal Raut. Exhibit-R/8 is the postmortem report of deceased in which the multiple injuries are mentioned. Cause of death is shown severe hemorrhage and shock resulting in cardio respiratory failure. Exhibit-9 is reporting in regard to the deadbody lying on the Railway Station and photo copy of the *sanha* is also annexed. Exhibit-R/10 is the report of untoward incident. Exhibit-



R/11 is the brief particulars of untoward incident issued by the Inspector In-charge, RPF Jasidih. Exhibit-R/12 is the brief particular of untoward incident.

12.4 From all the documentary evidence adduced on behalf of the Railway which are the Exhibit-R/1 to R/12 and also the documentary evidence adduced on behalf of the claimants, **this fact is proved that the death of the deceased was the untoward incident which was caused while the deceased was boarding in the running train Train No. 18181 UP Tata-Chapra Express on 03.05.2014 at Jasidih Railway Station and the UD case was also registered on the written information of the son of the deceased. From the same it is well established that the deceased was the vendor of *Litti-Chatni* and he was boarding in the said train for the vending the same and while boarding the running train he fell down and sustained injuries.**

12.5 **This written information is the admission against the claimant and the legal heirs of deceased Ramdev Raut. As such the same being the admission of the claimant's son is found admissible and same is not rebutted from the statement of claimant Parwati Devi whose statement is nothing but hearsay evidence.**

12.6 Therefore, from the evidence adduced on behalf of both the parties it is found that the husband of the claimant Ramdev Raut was not *bona fide* passenger, while he was boarding in the running train on 03.05.2014 for selling the *Litti-Chatni* as he was a vendor without any license or authority issued by Railway Administration and was also having no railway ticket on the alleged date of the incident. The said

accident was caused whereby he sustained multiple injuries and died accordingly this point of determination is against the appellants/claimants.

13. In view of the conclusion drawn from the aforesaid point of determination the impugned award passed by the learned Tribunal needs no interference and this Miscellaneous Appeal is deserved to be dismissed.

14. This **Miscellaneous Appeal** is hereby dismissed and the impugned award passed by the learned **Tribunal** in OA (IU)/RNC/130/2016 is hereby **affirmed**.

15. Let the record of learned court below be sent back alongwith copy of the judgment.

**(Subhash Chand, J.)**

Jharkhand High Court, Ranchi  
AFR  
Dated: 12 .04.2024  
RKM