

GAHC010055232019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MFA/96/2019

BASIR UDDIN LASKAR
S/O- LATE NEJAMOT ALI,
R/O- APPIN, P.O.- APPIN PART-I, P.S. KATLICHERRA, DIST.- HAILAKANDI,
ASSAM.

VERSUS

THE UNION OF INDIA AND ANR
REP. BY THE GENERAL MANAGER, N.F. RAILWAY/WESTERN RAILWAY,
MALIGAON, GUWAHATI- 781011.

2:THE GENERAL
CENTRAL RAILWAY

CST
MUMBAI- 400001

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : SC, NF RLY

PRESENT

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant : Mr. G. Uddin,
Advocate.

For the Respondents : Mr. B. Sarma,
S.C., NF Railway.

Date of Hearing : 16.05.2024.

Date of Judgment : 28.05.2024.

JUDGMENT AND ORDER (CAV)

Heard Mr. G. Uddin, learned counsel representing the appellant as well as Mr. B. Sarma, learned Standing Counsel, N.F. Railways appearing for the respondents/Union of India.

2. This is an appeal under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment and order dated 03.01.2019 passed in O.A. No.OA-llu-85/2015 (Old), OA-llu/Ghy/85/2015 (New) whereby the claim application was dismissed.

3. On 30.10.2014, late Mujakkir Hussain Laskar was travelling in a train to Mumbai. At a place under the jurisdiction of Navi Mumbai Railway Police Station, he fell down from the train and died because of the injuries sustained. A season railway journey ticket bearing No.62971241/62971242, valid from 25.10.2014 to 24.11.2014 was recovered from his possession.

4. Thereafter, a claim application was filed before the Railway Claims Tribunal, Mumbai Bench. Another similar claim application was filed before the Tribunal at Guwahati also. The case filed before the Claims Tribunal at Guwahati was dismissed on account of duplicate filing. The case filed before the Mumbai Tribunal was transferred to Guwahati Bench for disposal.

5. In the case before the Tribunal, four issues were framed. They are as under:

- I. Whether the victim was a bona fide passenger?
- II. Whether the victim died in an untoward incident?
- III. Whether the applicant is entitled for compensation? If so, to what sum?
- IV. Relief and costs?

6. Finally, the Tribunal dismissed the claim application holding that the season

ticket which was found from the dead body of the deceased was not a genuine document.

7. The discrepancies found by the Tribunal are quoted as under:

(i) The number of season ticket is mentioned shows the number 1241 but the attached identity proof mentions a ticket number as 1242. An I-Card has to cross match with number given in the season ticket which is wrong in this case.

(ii) No name is mentioned in the season ticket but I-Card shows name as “Mudkhar” whereas the name of the deceased person was Mujakkir Hussain Laskar.

(iii) The photo shown on the I-Card has been pasted over the ticket and the stamp & signature is below the photo which clearly indicates that the photo has been pasted on the I-Card later. There is no signature of the card holder either on the ticket or on the I-Card as per the standard practice followed in Mumbai Suburban area. The absence of his name and signature has also been reflected in the respondent defence.

8. Mr. Uddin has submitted that the learned Tribunal has erroneously appreciated the evidence. Regarding the authenticity of the season ticket found from the dead body of the deceased, the learned counsel has submitted that it was the duty of the Tribunal to verify the authenticity of the season ticket.

9. *Per contra*, Mr. Sarma has submitted that according to Rule No.242.1 (1) (III) of the IRCA Coaching Tariff No.25, Pt.I (Volume I), the Railways issues a photo identity card to every season ticket holder without production of which, the season ticket is invalid. Mr. Sarma has pointed out that the I-Card of the deceased and the season ticket recovered from him do not tally with each other in material particulars. Mr. Sarma has pointed out that these are the documents produced by the claimants and therefore, it is their duty to prove the authenticity of those documents. The learned counsel has submitted that Railway Claims Tribunal is an adjudicatory authority. Therefore, it is the duty of every claimant to prove his case before the Tribunal.

- 10.** I have considered the submissions made by the learned counsel of both sides.
- 11.** I am of the considered opinion that the submission made by Mr. Sarma has force in it. The Tribunal has held that the I-Card of the deceased did not tally with the season ticket. The Railways would pay compensation to any *bona fide* passenger if he dies in an untoward incident while travelling in a train. Therefore, it is the duty of the claimant to prove that the deceased was a *bona fide* passenger having proper documents, like season tickets and the necessary I-Card. According to the rule of the Railways, both the season ticket and the I-Card must tally with each other in material particulars.
- 12.** In the case in hand, the claimant has failed to prove that the season ticket was connected to the I- Card in material particulars. Therefore, I find that the learned Tribunal has correctly appreciated the evidence and arrived at a correct finding.
- 13.** Under the aforesaid circumstances, I find that the appeal does not have any merit. The appeal is dismissed and disposed of accordingly.

Send back the LCR.

JUDGE

Comparing Assistant