

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.7688 of 2014 (O&M)

Date of decision: 20.07.2015

Union of India and others

..... Appellants

versus

Kamla Devi and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Nitin Kumar, Advocate for the appellants

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Union of India has filed this appeal against the judgment dated 7.2.2014, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, vide which, Union of India was ordered to pay Rs.4 lac to the legal heirs of Sh. Braham Dutt, deceased who died in an untoward accident, involving the Indian Railways.

Facts of the case are that on 3.1.2011, the deceased Braham Dutt was to go to Neem Ka Thana from Ateli railway station. He was working as Headmaster at Dhani Bahadur Singh. He was having monthly season ticket (MST) from Ateli to Neem Ka Thana bearing No.34675050 valid from 1.1.2001 to 31.1.2001. When the train reached the Ateli railway station, there was heavy rush of passengers. When the deceased tried to board the train, his foot got entangled in the footrest of the train. The train dragged him few

yards due to which his both legs were crushed under the train. The deceased succumbed to injuries at the spot.

I have heard learned counsel for the appellant and have carefully gone through the file.

The contention of counsel for the appellant is that for the monthly season ticket, a fresh ticket was required to be issued every day. Therefore, the deceased was not having the valid ticket. I am of the view that the monthly season ticket itself is a valid permit to travel in the train. Thus, it was valid on the day when the untoward incident took place.

Learned counsel for the appellant has further argued that the deceased tried to board the running train despite warning by the guard. Therefore, the deceased was to blame himself for the accident and railway cannot be held liable. The Tribunal has recorded that it cannot be conclusively stated that the deceased was acting criminally or was negligent. In the present case the train was still stated to be at platform when the deceased tried to board the train and at the most it can be called the foolish act or negligent and cannot be called criminal negligence. The deceased was having valid monthly season ticket and his act in getting entangled in footrest and being run over the train is an “untoward incident”.

This Court in Paramjeet Kaur @ Anju and others v. Union of India and another, FAO No.1734 of 2013, decided on 27.3.2015 after discussing the entire case law on the point has held that once the incident is untoward incident, the railway is liable. There is a rule of strict liability, as originated from the judgment of the British Court

in Rylands v. Fletcher, 1866 LRI Ex 265, which was later on followed by the Constitution Bench of Supreme Court in M.C.Mehta v. Union of India, AIR 1987 Supreme Court 1086. It was also held that the act of trying to board the running train is not a criminal negligence. The authority of Hon'ble Supreme Court in the case of Union of India v. Prabhakaran Vijay Kumar and others, 2008(3) RCR (Civil) 577 was also relied upon.

It being so, I do not find any merit in the present appeal.

The same is accordingly dismissed.

20.07.2015
gk

(Kuldip Singh)
Judge