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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 333/2015 and CM No.22990/2015 (condonation of delay of 88 days)**

POONAM & ORS

..... Appellants

Through: Mr. Yogesh Swaroop, Advocate

versus

UNION OF INDIA (MINISTRY OF RAILWAYS) Respondent
Through

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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29.10.2015

1. This appeal is preferred against the judgment of the Railway Claims Tribunal dated 16.03.2015. The appeal has been filed by the legal heirs of the deceased, Mehtab Singh, who died on 17.04.2013, on account of an incident that occurred at the Mangol Puri railway station.

1.1 The case of the appellants before the Tribunal was that on 17.04.2013, Sh. Mehtab Singh alongwith one, Sh. Sandeep came to Mangol Puri Railway Station. It is averred that the train was late in reaching the station. It is further averred that both Sh. Mehtab Singh as also Sh. Sandeep had valid MSTs to travel from Kharawar to Mangolpuri and back. The MST of Sh. Mehtab Singh was valid for the period 06.04.2013 to 05.05.2013.

1.2 It is further averred that since the train was late and due to

heavy rush and a sudden jerk, Sh. Mehtab Singh, who had managed to board the train, fell out of the train and thus died at the spot.

1.3 Based on the aforesaid, appellants filed a claim petition under Section 16 of the Railway Claims Tribunal Act, 1987 (in short the Act). The compensation in the sum of Rs.4 Lakh was claimed on account of death of Sh. Mehtab Singh.

2. The Tribunal concurred with the appellants that the deceased was a bonafide passenger based on the fact that he carried with him a valid MST.

2.1 On the other aspect, which is, that the incident, in which, Sh. Mehtab Singh died was an “untoward incident”, the Tribunal came to a contrary conclusion. The Tribunal’s conclusion was based on a contemporaneous material placed before it, which was, the statement made by the Loco-Pilot, one, Sh. Kuldeep Singh and the endorsement made by him in his official note book. In addition, the Tribunal also took into account the statement made by the guard, one, Sh. Ramveer Singh.

2.2 While reaching its conclusion, the Tribunal, discarded the evidence of the co-traveller, Sh. Sandeep (AW-2), on the ground that he was an interested party. The relevant statement of the Loco-Pilot and the guard is recorded verbatim in vernacular language (i.e. in Hindi) in paragraphs 10 and 11 of the impugned judgment. The factum of the endorsement made in the driver’s note book is adverted to in paragraph 12 of the impugned judgment.

2.3 The Tribunal based on the aforesaid material, as indicated above, came to the conclusion that the statements and records placed

by the respondent were generated in the normal course of work and that the officials did not stand to gain or lose anything by misrepresenting facts.

2.3 On the other hand, the Tribunal was of the view that Sh. Sandeep (AW-2) was an interested witness and perhaps in sympathy for the deceased's family had not adverted to the entire facts which, obtained in the case.

3. I have examined the matter. In my view, the matter principally veers around the statement of the Loco-Pilot, Sh. Kuldeep Singh and the weight that the Tribunal put on his statement as against the testimony of Sh. Sandep (AW-2).

3.1 Having considered the matter, I find it difficult to come to the conclusion that the Tribunal came to a finding, which was not based on the material placed before it. There is no perversity in the appreciation of evidence by the Tribunal. Therefore, in my opinion, there is no cause for interfering with the impugned judgment.

4. The appeal and the pending application are, accordingly, dismissed.

RAJIV SHAKDHER, J

OCTOBER 29, 2015

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