

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

Date of Decision: 28.04.2016.

FAO No.11 of 1996

Girdhari LalAppellant.

VERSUS

Union of IndiaRespondent.

WITH

FAO No.1202 of 1996

Union of IndiaAppellant.

VERSUS

Girdhari LalRespondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. S.K. Jain, Advocate
for the appellant (in FAO No.11 of 1996) and
for the respondent (in FAO No.1202 of 1996).

Mr. Karminster Singh, Advocate
for the appellant (in FAO No.1202 of 1996) and
for the respondent (in FAO No.11 of 1996).

SNEH PRASHAR, J.

An application claiming compensation to the tune of
Rs.5,00,000/- was filed by appellant-claimant Girdhari Lal pleading that on
08.02.1992 at about 9:30 a.m., he boarded train No.24 Dn, Janta Express at

railway station Tohana for going to Jind. His father Walaiti Ram and Brij Lal were also travelling in the same compartment. He was holding a valid IInd class monthly ticket pass bearing No.D-409035 issued on 06.12.1991 and valid upto 02.03.1992. At about 10:00 a.m. the train stopped at Railway Station Dharodi and then left for Narwana. As soon as the train came into motion, a bomb, hidden under their seat, exploded resulting in injuries to him and some other passengers. He was seriously injured and received about 60-70 pellets and some small pieces of wood entered his back and thigh bones. The appellant-claimant added that Tohana and Dharodi railway stations had earlier also witnessed number of such attempts made by the terrorists to attack railway track and trains but the department of railways had done nothing to prevent such incidents. There was no police guard or railway force in the train boarded by him and his father.

Having suffered serious injuries, the appellant-claimant was got admitted in Civil Hospital, Narwana on 08.02.1992 from where he was referred to Medical College and Hospital, Rohtak and he remained admitted there upto 28.06.1992. Because of the injuries sustained, he became permanently disabled and he took treatment from various private hospitals and was again admitted in Medical College and Hospital, Rohtak on 27.12.1992 but was discharged with unhealed injuries on 07.01.1993. He then remained admitted in Sunder Lal Jain Hospital, Ashok Vihar, Delhi and was discharged on 08.02.1993.

The application was contested by the respondent-Union of India. In its written reply the occurrence of accident was admitted but all

other pleas were denied. It was alleged that the amount of compensation claimed was far in excess of the amount admissible under the Railways Act, 1989 (for short, "the Act").

On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, learned Tribunal accepted the application and awarded compensation to the tune of Rs.40,000/- to the appellant-claimant with interest at the rate of 12% per annum from the date of application i.e. 02.12.1993. Respondent-Railways were allowed 60 days time to make payment failing which the appellant-claimant was held entitled to recover the said amount with interest at the rate of 15% per annum from the date of order till realization.

Feeling dissatisfied with the quantum of compensation awarded by learned Tribunal, the appellant-claimant preferred appeal i.e. FAO No.11 of 1996. Also being aggrieved with the award, appellant-Union of India filed appeal i.e. FAO No.1202 of 1996.

The submissions made by learned counsel for the parties have been heard and record perused.

The foremost argument emphatically raised by learned counsel for the appellant-railways is that the accident in question is not covered by the definition of 'accident' as contained in Section 123 read with Section 124 of the Act, since it did not involve any train and only a passenger was hurt in a bomb blast. In no circumstances, a bomb blast by an anti national

element would be termed as an 'accident' of a train in the course of the working of the railways. A criminal case regarding bomb blast in the compartment, in which unfortunately the claimant was travelling, was registered by Railway Police, Jind.

On the other hand, learned counsel for the claimant argued that although learned Tribunal admitted in so many words that the claimant had suffered serious injuries on account of bomb blast in the train and 60 to 70 pellets and other small pieces of wood had entered into his body for which he was operated upon and had also remained hospitalized for a long time, learned Tribunal rightly held that when the placing of the bomb in the railway compartment led to the accident, it amounted to an accident in the train or a part of it and a passenger if received injuries or lost life will be entitled to the claim allowed under the Act. It was an unforeseen circumstance and the passengers could not know about the same. By way of amendment, Section 124-A has been added in the Act w.e.f. 01.08.1994 by virtue of which an accident by way of bomb blast is provided as a ground for filing the claim application.

Section 124-A of the Act reads as under:-

“Compensation on account of untoward incident.—When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an

action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

- (a) suicide or attempted suicide by him;*
- (b) self-inflicted injury;*
- (c) his own criminal act;*
- (d) any act committed by him in a state of intoxication or insanity;*
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.*

Explanation.—For the purposes of this section, “passenger” includes—

- (i) a railway servant on duty; and*
- (ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.”*

Indeed, the untoward incident, in which the claimant suffered

injuries had taken place on 18.02.1992 but it has been held by Hon'ble Apex Court in **Rathi Menon vs. Union of India, 2001(3) R.C.R. (Civil) 224** that the Claims Tribunal must consider what the Rules prescribe at the time of making the order for payment of compensation. The applicability of the schedule providing amount of compensation comes into play on the date of awarding compensation. Amendments in the statute provided for payment of compensation are made keeping in view changing money value in the market as purchasing capacity of the money. Therefore, even the claims in the excess arising out of accidents which took place prior to the amendment will be entitled to compensation under the amended provisions as stood on the date of awarding of compensation.

As regards the compensation payable to the injured, Rule 3(3) of the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 (for short, "Rules 1990") is reproduced hereunder:-

"The amount of compensation payable in respect of any injury (other than an injury specified in the Schedule or referred to in sub-rule (2) resulting in pain and suffering, shall be such as the Claims Tribunal may after taking into consideration medical evidence, besides other circumstances of the case, determine to be reasonable: Provided that if more than one injury is caused by the same accident, compensation shall be payable in respect of each such injury: Provided further that the total compensation in respect of all such injuries shall not exceed [rupees eighty thousand]."

The appellant suffered injuries in a bomb blast and 60 to 70 pellets entered into his body and small pieces of wood also entered in his back and thigh bone. None of the injury suffered by the appellant-claimant fall in Part-II or Part-III of the Schedule. However, in the light of Rule-3 of Rules, 1990, the amount of Rs.40,000/- awarded by learned Tribunal is enhanced to Rs.80,000/-.

The enhanced amount of compensation be paid to the appellant-claimant within 60 days, failing which he shall be entitled to interest at the rate of 12% per annum from the date of this order till realization.

With the above modification in the award dated 31.08.1995, the appeal filed by Union of India is dismissed and the appeal of appellant Girdhari Lal is accordingly disposed of.

(SNEH PRASHAR)
JUDGE

28.04.2016.
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