

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.2088 of 1999 (O&M)

Date of decision: 06.12.2016

Union of India

.....Appellant

versus

Sunita Gupta

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Karminder Singh, Advocate for the appellant
Mr.Vivek Suri, Advocate for the respondent

- 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?*

Kuldip Singh, J. (Oral)

Manu, aged about 4 years, who was travelling along with his parents and siblings, died as a result of collision between Sealdah Express train ex-Jammu Tawi to Saharnpur and Frontier Mail. The accident occurred at Khanna on 26.11.1998. The Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') awarded compensation of Rs.4 lakhs to the mother of the deceased.

Railway has come up in appeal against the said judgment.

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

The short ground pressed at the time of arguments is that the deceased was not having any berth and was not having any valid ticket. It comes out that before the Tribunal, it was established that the deceased was

only four years of age and in the year 1988 i.e. when the accident occurred upto the age of five years no railway ticket was required. Therefore, the deceased, who was travelling with his parents and siblings, was rightly held to be bona fide passenger. Otherwise from the post-mortem report, it comes out that the doctors found the age of the deceased to be four years only. His height was only three feet. Even in the inquest report, the police determined the age of the deceased to be 4 ½ years which is less than five years. The mere fact that the deceased was not allotted any berth, as no ticket was required to be issued, is no ground to decline the compensation. It is a case of collision between two trains, for which, the railway is responsible. No ground to interfere.

Resultantly, the appeal stands dismissed.

06.12.2016

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No