IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.2483 of 1999.
Date of Decision: 03.05.2016.

Meena Chhabra and others ....Appellants.

VERSUS

Union of India, through The General Manager, Central Railway, Mumbai and another
....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Harsh Aggarwal, Advocate for the appellants.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Varun Goel, Advocate for the respondent-Union of India.

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<u>SNEH PRASHAR, J.</u>

Assailing the order dated 26.02.1999 of the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, "the Tribunal") in Case No.AO-II/10/98, vide which the appellants were held entitled to a sum of Rs.2,00,000/- as compensation in equal shares from the respondents-Railways, the appellants preferred the instant appeal.

Precisely, the facts are that on 12.06.1997 at about 7:00 a.m., Nitin Chhabra son of appellants No.1 and 2, after appearing in common entrance test at Davangere, boarded Delhi Express Train Ex.Bangalore to Delhi for coming to Chandigarh. He was occupying seat in second class compartment against railway ticket No.89745373. On 13.06.1997, when the train reached Manmad railway station, there was a spark in the train and Nitin Chhabra, who was near the bathroom, got an electric shock and suffered 91% burn injuries. He succumbed to the injuries on 18.06.1997. The appellants-claimants filed a claim application submitting that they spent Rs.1,20,000/- on treatment to save the life of the deceased and other miscellaneous expenses and claimed compensation to the tune of Rs.6,00,000/- on account of untimely death of Nitin Chhabra.

The respondents-railways contested the application. The preliminary objection raised by them was that no accident or untoward incident had taken place within the meaning of Section 124/124-A read with Section 123(c) of the Railways Act, 1989 (for short, "the Act") and therefore, the application was not maintainable. They denied that Nitin Chhabra suffered burn injuries as a result of railway accident. It was also submitted that the liability of the railway administration, if any, was restricted to the provisions of Railway Accident and Untoward Incident (Compensation) Rules, 1990 (for short, "the Rules of 1990").

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, the learned Tribunal allowed the claim application and held the appellants entitled to receive a sum of Rs.2,00,000/- as compensation from the respondents. The respondents-railways were allowed 60 days time to make payment, failing which the appellants were held entitled to interest at the rate of 12% per annum from the date of order till realization.

Feeling dissatisfied with the order dated 26.02.1999, the appellants preferred the instant appeal.

The submissions made by Mr. Harsh Aggarwal, learned counsel for appellants and Mr. Puneet Jindal, learned senior counsel for respondent-Union of India have been heard and record perused.

Learned Tribunal held that the deceased was a bonafide passenger of Delhi Express Train and the said finding has not been impugned by the respondent-railways. Similarly, the finding of learned Tribunal that the 'untoward incident' during which the deceased got electrocuted, suffered burn injuries and died is covered under Section 124-A of the Act, has also become final between the parties. The only contentious issue raised by the appellants is that the Rules relating to compensation, namely, the Rules of 1990 were amended by the Railway Accident and Untoward Incident (Compensation) Amendment Rules, 1997 (for short, "the Rules of 1997"), which came into force with effect from 25.10.1997. By virtue of the amended Rules of 1997 the fixed compensation of Rs.2,00,000/- provided by the Rules of 1990 has been enhanced to Rs.4,00,000/- in case of a death in a railway accident/untoward incident. The amended Rules of 1997 being a benevolent act to compensate the bereaved and sufferers are retrospective in nature. The instant application was filed on 29.12.1997 when the amendment was very much in force, therefore, the appellants are entitled to the compensation as per the amended Rules of 1997. To support his argument, learned counsel relied upon ***Rathi Menon vs. Union of India, 2001(3) R.C.R. (Civil), 224.***

Indeed, the Rules of 1990 were amended by the Central Government in exercise of the powers conferred on it by Section 129 of the Act. Rule 3(1) postulates that the amount of compensation payable in respect of death or injuries shall be as specified in the Schedule. The Rules as well as the Schedules were amended with effect from 01.11.1997. By way of amendment, the Schedule substituted provides that the compensation payable for death and injuries shall be Rs.4,00,000/-. In Rathi Menon's case (supra) the question that arose was whether amendment to the Schedule was applicable to the cases arising out of the accidents which took place prior to the amendment. Hon'ble Supreme Court answered the question as 'Yes'. It was held that applicability of the Schedule providing amount of compensation comes into play on the date of awarding compensation. The amendments in the statutes providing for payment of compensation are made keeping in view changing money value in the market as also purchasing capacity of the money. The observations of Hon'ble Supreme Court are as under:-

> *"Why the Central Government decided to make such a vast variation in the amount of compensation while exercising the powers conferred by Section 129 of the Act. It cannot be conceived that the Government wanted to make a discrimination between those victims who suffered the accident prior to 1.11.1997 and those who suffered the identical injury*

in a similar accident on or after the date. The raison detre for making such variation is easily discernible. The Central Government wanted to update the compensation amount. Rupee value is not an unchanging until in the monitory system. Students of economic history know that currency value remained static before the Second World War. But the post World War II witnessed the new phenomenon of vast fluctuations in money value of currency notes in circulation in each nation. When the U.S. Dollar has registered a steep upward rise, currencies in many other countries made downward slip. What was the value of one Hundred rupees twenty years ago is vastly different from what it is today. This substantial change has caused its impact on the cost of living also.

The Central Government while changing the figure in the compensation amount after an interval of a decade was only influenced by the desire to update the money value of the compensation. In other words, what you were to pay ten years ago to one person cannot be the same if it is paid today in the same figure of currency notes. It is for the purpose of meeting the reality that Central Government changed the figures."

Following the observation of Hon'ble Supreme Court, the Claims Tribunal must consider what the Rules prescribe at the time of making the order for payment of compensation. The amended Rules of 1997 had come into operation when the application for compensation of the appellants was decided. The appellants lost a young and promising son who progressed well in his life. Accordingly, the instant appeal filed by the appellants is allowed and the compensation awarded to them is enhanced from Rs.2,00,000/- to Rs.4,00,000/-. The amount shall be payable alongwith interest at the rate of 12% per annum with effect from 26.02.1999 i.e. the date of order passed by the Claims Tribunal.

(SNEH PRASHAR)
JUDGE

03.05.2016.
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