

CWP No.7819 of 2010 (O&M)

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

**CWP No.7819 of 2010 (O&M)
Date of decision:31.08.2016**

Roopam Mehta and others

...Petitioners

Versus

The Union of India

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.K.Shukla, Advocate,
for the petitioners.

Mr. Neeraj Madan, Advocate,
for the respondent.

Rakesh Kumar Jain, J.

Petitioner No.1 is the widow of Vikrant Mohan Mehta and petitioners No.2 and 3 are his minor children who have prayed for a direction to the respondent to grant compensation of ₹8 lacs with interest on account of death of Vikrant Mohan Mehta.

It is alleged that on 15.06.2007, at about 1:30 p.m., when Vikrant Mohan Mehta (since deceased) was coming in his Maruti Zen car bearing registration No.PB-10W-4404 to his house for lunch and was crossing unmanned Gate No.C-3 KM 2/3-4, he was run down by Train No.2920 DN (Malwa). Allegations have been made by the petitioners that no proper signs were displayed near or on the Railway Gate No.C/3 KM 2/3 BET JRC, Suchipind and, thus, loss of life of Vikrant Mohan Mehta is on account of the negligence of the railway authorities, for which they should be compensated.

During the pendency of the writ petition, the following order

was passed by this Court on 10.12.2010:-

“The petitioners are the wife, minor daughter and son, respectively of Vikrant Mohan Mehta, who while crossing the unmanned Railway Gate No.C-3 KM 2/3-4 in his Maruti Zen car was hit by “2920 DN (Malwa)” Train resulting into his instant death at the spot. The factum of accident and the manner in which it took place, is duly acknowledged by the Government Railway Police at Jalandhar in its FIR No.54 dated 15.06.2007 registered at PS GRP Jalandhar (Annexure P1) which was lodged by none-else than the Station Master himself posted at Suchipind railway station, as also in the report under Section 173 Cr.P.C. (Annexure P2). The deceased was about 34 years' old and has left behind petitioner no.1 (his wife) and Petitioners No.2&3 (two minor children aged about 8 & 6 years, respectively), who have approached this Court to command the respondent-Railway authorities to pay them the compensation to the tune of ₹8 lacs along with 12% interest.

The deceased was running a Kiryana Shop-cum-General Store and was the only source of livelihood for the family.

Despite opportunities no reply has been filed by the respondent nor anyone has appeared on its behalf.

In the interest of justice and as a last opportunity, adjourned to 14.02.2011. The respondent shall be at liberty to file its reply/affidavit with an advance copy to the counsel for the petitioner, meanwhile.

Having regard to the material on record, which, *prima facie*, indicates that the petitioners have lost their only source of survival in a fatal accident caused due to the unmanned railway track, the respondent, as an interim measure, is directed to pay a sum of ₹2 lacs to the petitioners i.e. ₹1 lac to petitioner No.1 and ₹50,000 each to petitioners No.2 & 3, within a period of two weeks from the date of receipt of a certified copy of this order.

The interim compensation shall be adjustable against the finally assessed compensation, as may be amended.

However, the interim release shall be without prejudice to the plea to be taken by the respondent.

Dasti.”

Thereafter, on 14.02.2011 and 28.02.2011, the following orders were passed by this Court:-

“On 10.12.2010, this Court after forming, prima facie, opinion directed the Railways to release, as an interim measure, a sum of Rs.2 lakhs. Rs.1 lakh was to be paid to petitioner No.1 and Rs.50,000/- each to petitioners No.2 and 3 within two weeks. Concededly, this order has not been complied with. Reply is also not filed. Counsel appearing for the respondents for UOI prays for time to file reply. He further submits that concerned respondent-authorities were approached but so far the compensation has not been released. This reveals violation of the interim direction passed by this Court. Two weeks' time is granted to comply with order dated 10.12.2010. If the payment is not released within two weeks, the Secretary, Railways shall remain present before the Court to explain reasons in this regard on the next date of hearing.

Adjourned to 28.02.2011. In the meantime, reply be filed.”

“Counsel for the respondent has brought three Accounts Payee Cheques in the name of Roopam Mehta, Samiksha (minor) and Saksham (minor) for sum of Rs.1 lakh and Rs.50,000/- (each) respectively. The cheques are handed over to the counsel for the petitioner. Reply has been filed.

Adjourned to 18.07.2011 for arguments.”

Accordingly, an interim compensation of ₹2 lacs has already been paid. Now the issue is as to how much amount can be awarded to the petitioners as compensation where the respondent has attributed negligence to the deceased. Since one FIR has been registered by the respondent bearing No.54 dated 15.06.2007, under Sections 279, 304-A and 427 IPC, at Police Station GRP, Jalandhar in respect of the accident in which Vikrant Mohan Mehta had lost his life and the negligence has been attributed to him, therefore, the respondent is denying its liability. The Central Government, in exercise of the powers conferred by Section 129 of the

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Railways Act, 1989 read with Section 22 of the General Clauses Act and in supersession of the Railway Accidents (Compensation) Rules, 1989, has framed the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 (hereinafter referred to as the “Rules”), in which Rule 3 deals with the amount of compensation to be awarded in case of ‘no fault liability’ and Rule 4 deals with the amount of compensation which has to be paid.

According to Rules 3 and 4 of the Rules, the petitioners are entitled to ₹4 lacs because of the death of Vikrant Mohan Mehta. In this regard, reliance can be placed upon two decisions of the Orissa High Court rendered in the case of **Laxmi Priya Sahoo and Anr. vs. Divisional Railway Manager, East Coast Railway, Khurda and Anr.**, 2013(6) R.C.R. (Civil) 1762 and **Debahuti Parida and another vs. The General Manager East Coast Railway and another**, 2014 AAC 3120.

After hearing learned counsel for the parties and taking into consideration the facts and circumstances and also the provisions of the Rules and the judgments relied upon by learned counsel for the petitioners, the present petition is hereby allowed, awarding compensation of ₹4 lacs to the petitioners as compensation along with interest @ 10% per annum from the date of application till its actual realization of the remaining amount of ₹2 lacs as out of ₹4 lacs, ₹2 lacs have already been paid.

August 31, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No