

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

**FAO No.8691-2015 (O&M)
Date of Decision: 11.03.2016.**

Union of India

....Appellant.

VERSUS

Jalwati and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Manoj Chadha, Advocate for
Mr. Amit Aggarwal, Advocate for the appellant.

SNEH PRASHAR, J.

CM-27499-27500-CII-2015

There is a delay of 29 days in filing and 6 days in refiling the appeal. In view of the averments made in the applications, delay of 29 days in filing and 6 days in refiling the appeal is condoned.

C.Ms. stand disposed of.

FAO-8691-2015 (O&M)

Assailing the judgment dated 09.07.2015 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (for short, “the Tribunal”) awarding compensation to the tune of Rs.4,00,000/- to respondents No.1 to 4-claimants in claim Case No.OA-II/92 of 2012 filed under Section 16 of the Railway Claims Tribunal Act, 1989 (for short, “the Act of 1989”) read

with Section 124-A of the Railways Act, 1989, the appellant-Union of India, through General Manager, Northern Railway, New Delhi preferred this appeal.

As per the averments of the claimants, on 01.12.2011 Ved Ram (since deceased) boarded EMU train from Railway Station Rundhi for going to New Town, Faridabad. He possessed MST pass No.47948948 valid for the period from 13.11.2011 to 12.12.2011. The compartment being crowded, Ved Ram was standing near the door. When the train reached near Railway Station New Town, Faridabad, due to heavy jerk Ved Ram fell down from the moving train. He suffered multiple serious and grievous injuries. He was taken to B.K. Hospital, Faridabad from where he was referred to Safdarjung Hospital, New Delhi, but his condition being critical, he was taken to Central Hospital, Faridabad and then to Safdarjung Hospital but he succumbed to the injuries.

The claimants, being widow and minor children of deceased Ved Pal filed a petition invoking the provisions of Section 16 of the Act of 1989 and Section 124-A of the Railways Act, 1989 claiming compensation to the tune of Rs.8,00,000/- alongwith litigation expenses and interest, against Union of India-respondent (appellant herein).

The appellant contested the petition raising various objections. It was denied that the deceased was performing alleged journey or was a bonafide passenger of the train. The nature of injuries sustained by the deceased were also alleged to be self inflicted because of his own negligent act and conduct.

On the rival pleadings of the parties, issues were framed. Both the parties led evidence. Considering the ocular and documentary evidence led by the parties and the submissions made on their behalf, learned Tribunal awarded compensation as indicated above.

Feeling aggrieved with the judgment dated 09.07.2015, the appellant preferred the instant appeal.

The submissions made by Mr. Manoj Chadha, learned counsel for appellant have been heard.

Learned counsel for the appellant argued that the report of the Divisional Railway Manager was self speaking but learned Tribunal failed to appreciate the same. He conducted enquiry at the spot and found that the deceased was hit by a goods train while crossing the railway track/railway line without permission of the authorities. To the same effect was the deposition of Hari Prasad Kashyap, Station Master of New Town, Faridabad, who specifically stated that there was no EMU train running from Rundhi Station to New Town, Faridabad after 9:51 hours on the relevant date. As such, the contention of the claimants that the deceased was travelling as a passenger in the EMU train from Railway Station Rundhi to New Town, Faridabad was wrong.

It could not be disputed by the appellant that the deceased possessed MST pass No.47948948 valid for the period from 13.11.2011 to 12.12.2011. Learned Tribunal observed that according to the GRP report Ex.A13 tendered in evidence, Ved Ram at KM No.1505/25 near Railway Station New Town, Faridabad got injured on being hit by train and his death

is result of railway accident. Importantly, the respondents also in its written reply admitted that the deceased was hit by a goods train. However, for the reasons best known to the appellant the driver of the goods train was not examined. Even the particulars of the said train were not mentioned. Learned Tribunal rightly concluded that since the deceased possessed a valid MST pass and it had not been denied that the accident occurred in the railway precincts, he was a bonafide passenger. The claimants being dependents of deceased Ved Ram were awarded compensation to the tune of Rs.4,00,000/- and the said findings of learned Tribunal call for no intervention.

Thus, there being no merit in the appeal, it is dismissed.

(SNEH PRASHAR)
JUDGE

11.03.2016.
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