

Civil Revision No. 6725 of 2015

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

Civil Revision No. 6725 of 2015

Date of decision: 13.1.2017

Master Ram Bahadur (Minor) through his mother Smt. Roopwati

... Petitioner

Vs.

Union of India

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Parminder Singh Advocate
for the petitioners.

Mr. G.S.Bajwa, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 15.9.2015 (Annexure P-4) passed by learned Railway Claims Tribunal, Chandigarh Bench, dismissing the application for amendment of the claim petition, petitioner has approached this Court by way of present revision petition.

Notice of motion was issued.

Heard learned counsel for the parties.

Facts are hardly in dispute. The untoward incident took place on 10.3.2013. The matter was reported to the concerned police authorities. When the respondent department did not accept the claim of the petitioner, she approached the Railway Claims Tribunal by way of application under Section 16 of the Railway Claim Tribunal Act, 1987 as Annexure P-1.

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During the pendency of the claim petition, petitioner-claimant moved application (Annexure P-2), seeking amendment in para 6 of the claim petition to incorporate correct number of the train.

Learned counsel for the petitioner has been found justified in contending that since neither nature of the claim was going to be changed, nor any prejudice is likely to be caused to the department by amending para 6 of the claim petition, the application for the amendment ought to have been allowed by learned Tribunal. He further submits that the facts which were sought to be incorporated by way of amendment application were very much verifiable facts and the petitioner could be easily confronted with correctness thereof at appropriate stage of the litigation.

When confronted with the abovesaid fact situation, learned counsel for the respondent-department, despite making his best efforts, could not deny the peculiar facts and circumstances of the case and rightly so, it being a matter of record. It is very clear that if the application for amendment would have been allowed, it would never change the nature of controversy or nature of claim of the petitioner in any manner. Facts sought to be incorporated by way of amendment could have been easily verified by the respondent department. Since particulars of all the trains are matter of record, petitioner would not be in a position to give any distorted figures. However, learned Tribunal failed to appreciate this material aspect of the matter, while passing the impugned order, because of which the same cannot be sustained.

It is the settled proposition of law that rules of procedures are meant for advancing the cause of justice and should not to be invoked for defeating the cause of justice. Finally, no prejudice of any kind, whatsoever,

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is going to be caused to the respondent-department, by allowing the amendment sought by the petitioner. Having said that, this Court feels no hesitation to conclude that since learned Tribunal failed to appreciate true factual as well as legal aspect of the matter while passing the impugned order, the same cannot be sustained, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition deserves to be accepted. Consequently, impugned order dated 15.9.2015 (Annexure P-4) passed by learned trial court is hereby set aside. The amendment application of the petitioner would stand allowed. Applicant-petitioner would be permitted to incorporate the correct number of the train in para 6 of the claim petition.

Let the petitioner file amended claim petition before the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh within a period of three weeks from today. Thereafter, learned Tribunal shall proceed further in accordance with law and decide the case of merits, at an early date.

With the abovesaid observations made and directions issued, present revision petition stands disposed of, however, with no order as to costs.

13.1.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No