

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-12132-CII-2017 in/and
FAO-3707-2017
Date of Decision : 12.10.2017

Union of India

..... Appellant

Versus

Rahila Wakil and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rahul Garg, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-12132-CII-2017

For the reasons recorded, the application is allowed. Delay of
56 days in refiling the appeal is condoned.

FAO-3707-2017

This appeal has been filed against the judgment of the Railway
Claims Tribunal, Chandigarh Bench, Chandigarh dated 15.12.2016 whereby
a compensation amounting to Rs.4 lakhs alongwith simple interest @ 9%

pa. had been awarded to the claimants-respondents for the death of one

Mohd. Wakil who was alleged to have died in the blast which took place in the Samjhauta Express (Attari Express) on 18.02.2007.

The respondents are Pakistani citizens whose case was that their father Mohd. Wakil had travelled to India and was coming back to Pakistan on the fateful day when the blast took place and he died in that blast and consequently sought compensation from the appellant-UOI. The case of the appellant was that Mohd. Wakil was not a passenger on that train. The respondents based their case on a letter dated 14.09.2010 addressed to them by the National Investigating Agency of India informing them that Mohd. Wakil had in fact died in the bomb blast and his body had also been identified. On the other hand, the case of the appellant was that at various times the claimants-respondents had themselves claimed that Mohd. Wakil was alive. However, it is important to note that the primary evidence which the appellant could have led to disprove the claim, viz. the passenger list which would have conclusively shown if Mohd. Wakil was one of the passengers or not was not placed on the record despite the fact that it was in the possession of the appellant. It was in these circumstances that the Tribunal allowed the claim.

Counsel for the appellant has argued that the finding of the Tribunal was at best conjectural in view of the claim of the respondents that Mohd. Wakil was alive.

In my opinion, this argument would not cut much ice. It is a common human tendency that if a family member or near one goes missing the other persons are very reluctant to believe the worst and will carry on hoping that the missing person is alive and will come back one day. It is

against this prism that the statements of the respondents has to be viewed. No doubt, at various times they had stated that certain people met them who had stated that they had seen Mohd. Wakil alive but, as mentioned above, that could easily be wishful thinking and not hard evidence. The Tribunal was therefore right in coming to the conclusion on the basis of preponderance of probability that Mohd. Wakil had died in the Samjhauta Express bomb blast.

Consequently, the appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 12, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No