

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO No.148/2017**

% **14th September, 2017**

RAMDESH & ANR. Appellants

Through: Mr. D. Sabharwal, Advocate.

versus

UNION OF INDIA Respondent

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This first appeal is filed under Section 23 of the Railway Claims Tribunal Act, 1987 impugning the judgment of the Railway Claims Tribunal (RCT) dated 24.1.2017 which has dismissed the claim petition filed by the appellants/claimants, and who are the parents of the deceased Sh. Anil who is alleged to have died in an untoward incident on 14.4.2016 while travelling in an EMU local train from Rundhi, Palwal to Okhla railway station.

2. In law before a claim petition succeeds for the statutory compensation, it is required under the Explanation to Section 124-A of

the Railways Act, 1989 that a person must be a *bonafide* passenger i.e he must be travelling on a valid train ticket. In the present case, the RCT below has given a finding that the deceased Sh. Anil was not a *bonafide* passenger because the ticket Ex.A-8 produced by the appellants/claimants cannot be relied upon. The reasons given by the RCT for non-relying upon the ticket Ex.A-8 are as under:-

“On the issue of whether the deceased was a bonafide passenger, the applicant has produced a ticket Ex.A-8 for travel between Rundhi to Okhla railway stations. The accident had taken place between Faridabad and Tughlakabad railway stations. At the time of inquest carried out on the same day on 14.4.16, it has been specifically elicited in the presence of witnesses that there was no ticket available on the person of the deceased. The GRP official, who carried out the investigation, has also stated that there was no ticket available with the deceased. When the applicant was examined by the RPF after the case was instituted before the Tribunal, the father of the deceased had given a statement to the effect that the ticket, which is produced before the Tribunal was given to him by the friend of the deceased, whose name he did not know.

The Learned Counsel for the respondent points out that the ticket purchased was not on the person of the deceased as the police itself had noted on the same day on 14.4.2016 and has observed at the time of inquest. One Desh Raj, said to be an attendant is purported to have recovered the ticket at the time of postmortem on 16.4.16. If Desh Raj had handed over the ticket, as claimed, then the statement by the applicant that the friend of the deceased had handed over the ticket to him has no meaning. Anyone who undertakes the investigation understands the value of a ticket in relation to the status of the person as a passenger. The investigation regarding the untoward incident has statutory purpose to fulfill, namely of assisting the Tribunal to arrive at a definite conclusion regarding the status of a person, who is injured or dead as a passenger and draws inference of whether the death or injury was on account of an untoward incident or it was due to any of the circumstances excepted under Section 124-A of the Railways Act, 1989. A man in any modern attire can have only two places to store a ticket viz. either a shirt pocket or a pant pocket. If at the time of inquest no ticket was noticed and the investigating officer had also stated that there was no ticket, if there was any lapse on his part and if there was anyone who knew that the deceased had purchased a ticket, that ought to have been brought to his

notice on the same day. If the ticket must surface two days later and not produced by the doctor, who performs the postmortem, but an attendant takes it out of the clothes, it excites enormous suspicion. A body that is brought for postmortem is never fully attired. The clothes are normally removed from the body and a sheet of cloth drawn over it. It is seldom possible that clothes are allowed to hand on to the body for two days till the postmortem is conducted.” (underlining added)

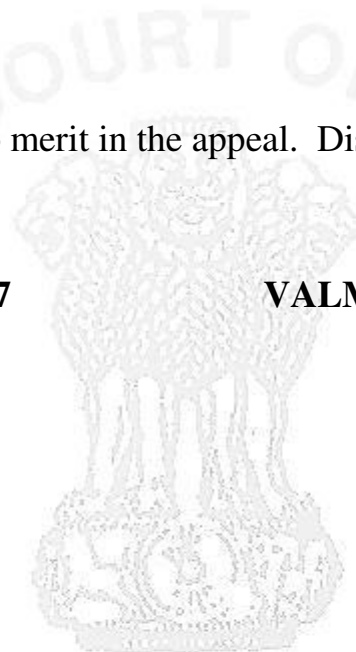
3. A reading of the aforesaid reasoning of the RCT shows that the RCT has correctly held that the deceased was not a *bonafide* passenger because though no doubt a ticket Ex.A-8 was filed, alleged to be of the deceased for travel on the date in question when the alleged untoward incident happened, however it was also a fact that the inquest carried out on the same date of the accident being 14.4.2016 showed that no train ticket was recovered from the person of the deceased. RCT also notes that the father of the deceased gave a statement to the effect that the ticket which is produced before the RCT was given to the father of the deceased by a friend of the deceased but neither the name of the friend was given but also what is extremely important to note is that one Sh. Desh Raj, said to be an attendant is purported to have recovered the ticket at the time of the postmortem two days after the death on 16.4.2016. If that was so, the story put forth by the appellants/claimants of the ticket being given by the friend of the deceased was clearly false. RCT was therefore

justified in arriving at a finding that once at the time of inquest no ticket was recovered hence the deceased was not a *bonafide* passenger and that it is not possible to draw a conclusion that if the ticket was not recovered on the date of the incident and inquest, the same could be recovered two days later by an attendant during the postmortem proceedings.

4. There is no merit in the appeal. Dismissed.

SEPTEMBER 14, 2017
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VALMIKI J. MEHTA, J



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