

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

+ **FAO No. 319/2017**

% **17th November, 2017**

RUVEDA KHATUN & ORS. Appellants

Through: Mr. Anshuman Bal, Adv.

versus

UNION OF INDIA Respondent

Through: Ms. Shipra Shukla, Adv.

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 dated 7.2.2017, by which the Railway Claims Tribunal has dismissed the claim petition filed by the appellant on two counts. First count is that the deceased Md. Moajjan was not proved to be a *bonafide* passenger travelling on a valid ticket and secondly that there is no proof of fall from the train.

2. In my opinion this appeal is liable to be dismissed on the ground that the deceased was not a *bonafide* passenger because no doubt it is not necessary that in all cases a ticket must be found so as to establish that the deceased was a *bonafide* passenger, however, the facts of each case have to be examined as to whether the deceased was a *bonafide* passenger. Admittedly from the person of the deceased a mobile was recovered as also two bags containing old clothes were found near the body of the deceased, but neither in the bags nor on the person of the deceased any ticket was recovered. Therefore the Railway Claims Tribunal was justified in arriving at a finding that there was no reason why if the deceased had purchased the ticket the same would not have been recovered from the person of the deceased or from his clothes or from his bags. I therefore completely agree with the findings of the Railway Claims Tribunal that the deceased was not proved to be a *bonafide* passenger.

3. In my opinion the deceased also cannot be held to be a *bonafide* passenger by holding that he had purchased a ticket because it is seen that in the claim petition and the evidence led it is not mentioned that why the deceased was travelling from New Delhi to

Ballabgarh and during which journey he is said to have fallen down between Faridabad and New Faridabad Town. Counsel for the appellant argues orally that the deceased was going to meet his brother at Ballabhgarh, however, I am indeed very surprised at such an argument inasmuch as there is no pleading and evidence led by the appellant/claimant that the deceased was going from New Delhi to Ballabhgarh to meet his brother.

4. It is also to be noted that the distance of travel is very short from New Delhi to Ballabhgarh. On long distance travel when a person is travelling with family or for other circumstances, Courts do infer, depending on facts of each case, that the deceased would be a *bonafide* passenger even if no ticket is recovered, however once there is short period of travel such as from New Delhi to Ballabgarh, it cannot be presumed that the deceased had purchased a ticket for travelling from New Delhi to Ballabgarh.

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

NOVEMBER 17, 2017/ib/Ne

VALMIKI J. MEHTA, J