

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.202

FAO No.4278 of 2005 (O&M)
DECIDED ON: February 08, 2018

MOHD. RIZWAN

..APPELLANT

VERSUS

UNION OF INDIA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Paul S. Saini, Advocate, for the appellant.

Mr. Jagdish Marwaha, Senior Standing Counsel,
for the respondent-UOI.

JASPAL SINGH, J.

Aggrieved against the Award dated May 26, 2004 passed in case No.OA.II/63/2000 captioned as ***Mohd. Rizwan vs. Union of India***, whereby the claim preferred by him on account of death of his unmarried brother namely Mohd. Yaseen in a train accident, under Section 124 of the Railways Act, 1989 for brevity 'Act' only has been declined.

2. A close scrutiny of the impugned Award dated May 26, 2004 transpires that an application for claiming compensation has been dismissed on the ground that the applicant is not a competent person to prefer a petition under Section 124 of the Act, as he does not fall within the ambit of the definition of dependant as provided under Section 123(b) of the Act. Concededly, applicant is major and not minor brother of the deceased Mohd. Yaseen. The word '*dependant*' has been defined under Section 123 (b) of the Act and at this juncture, it would be relevant to reflect the same for the proper appreciation of the matter in controversy, it reads ut infra:-

123(b) “dependant” means any of the following relatives of a deceased passenger, namely:—

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;

(iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grandparent wholly dependant on the deceased passenger.

3. A glance at the aforesaid provisions makes it crystal clear that only the wife, husband, son and daughter are deemed to be the dependants and in case the deceased passenger is unmarried or is a minor, his parents also. In the second category, minor brother is only entitled to claim compensation, that too, if he is wholly or partly dependant on the deceased passenger. But the case of the appellant who is admittedly a major, is not covered within the definition of “dependant” as narrated above. As such, he is not entitled to any sort of compensation under the aforesaid provisions of the Act. Thus, this Court does not find any illegality or impropriety in the impugned Award dated May 26, 2004 passed by the Railway Tribunal, Chandigarh.

4. In the light of the aforesaid discussion, this Court does not find any merit in the instant appeal, as such, it stands dismissed with no order as to costs.

February 08, 2018

Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No