

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 214

FAO No.1580 of 2014 (O & M)
Date of Decision: February 05, 2018

Union of India

..... APPELLANT

VERSUS

Meena Kumari & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Nitin Kumar, Advocate, for the appellant.

Mr. Anand Singh, Advocate, for the respondents.

. . .

Jaspal Singh, J

Through the instant appeal, appellant – Union of India has challenged Award dated October 24, 2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, ‘RCT’), whereby claim petition filed by the respondents has been partly allowed, holding the respondents – applicants entitled to receive a sum of ₹ 4 lac in the manner detailed in the award, with simple interest @ 6% per annum from the date of filing claim application till the date of award. Further, Railway Administration was allowed 60 days’ time to make payment, failing which, claimants were held entitled to simple interest @ 9% per annum from the date of award till payment is made.

Brief facts of the case are that a claim application was filed by Meena Kumari widow of Mahesh Kumar and others seeking compensation for death of her husband in the alleged railway untoward incident. On May 15, 2012 Mahesh Kumar alongwith his father, for the purpose of taking medicine from Pikhani, boarded a train from Barara Railway Station. Subsequently, his father found him missing from train and he searched for his son. Lateron, he came to know that Mahesh Kumar fell down from running train at km 211/14-16 line No.2 due to heavy rush and succumbed to multiple injuries on the spot.

A claim petition/application came to be filed before the RCT claiming compensation, by Meena Kumari widow of Mahesh Kumar, his two sons, mother and father. It was contested by the appellant – respondent Union of India.

After hearing learned counsel for the parties and appreciating evidence available, claim application was partly allowed vide Award dated October 24, 2013 and entitling the claimants – respondents to receive compensation as detailed in Para 1 of this judgment.

Heard.

It is an undisputed fact that Mahesh Kumar (deceased) was a bonafide passenger of train, who sustained injuries and died in an untoward railway incident. In the case in hand, Mahesh Kumar alongwith his father boarded a train from Barara to Pikhani to get medicine of his headache from a local vaid at village Bhojpur. Subsequently, Mahesh Kumar went missing from train and his father lateron came to know that he fell down from running train and succumbed to injuries.

It has been established on record that Mahesh Kumar was a bonafide passenger, in as much as, valid railway tickets were produced through fard peshkardagi by his father before GRP. As such, it was rightly held by the RCT that deceased was a bonafide passenger at the time of incident and was travelling on a valid train ticket.

It is settled law that right to life is a fundamental right, guaranteed under Article 21 of the Constitution of India. Once Railway issues the tickets to board the train, then it is the duty of Railway to take necessary measures for safety and security of the passengers. It is for the Railway to take steps or provide appropriate measures or infrastructures, so that whenever the train moves from the platform, the doors are closed. Proper security measures should be taken by the Railway uniformly for the reserved and unreserved compartments. The Railway or the Government cannot shirk from its responsibility with regard to the safety and security of the passengers travelling by train or using the platforms. Needless to mention that legal maxim *Salus Populi Est Supreme Lex* means regard for the public welfare is the highest law. Sections 57, 58 and 59 of the Railways Act, 1989, secure safety measures and welfare of the people at large. Thus, the burden lies on the Railway to give effect the statutory provisions in its letter and spirit. Apart from it, it is the duty of the Railway to make necessary arrangements to regular the entry of passenger in the compartment as well as platform. Even the entry to the platform is restricted by platform ticket. Thus, it is presumed that every person travelling in the train or entering the platform is holding a valid ticket unless proved otherwise. In the instant case, Railway has failed to prove that Mahesh Kumar was a ticketless passenger.

In the light of the above discussion, this Court does not find any illegality or perversity in the impugned award/order passed by the RCT. The appeal filed by the Union of India through the General Manager, Northern Railway is devoid of merit and is accordingly dismissed with no order as to costs.

February 05, 2018
avin

(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No