

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 205

FAO No.644 of 2014 (O & M)
Date of Decision: April 16, 2018

Union of India

..... APPELLANT

VERSUS

Neeru

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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PRESENT: - Ms. Shemena Sabharwal, Advocate, for Mr. Sandeep Vermani, Advocate, for the appellant.

Mr. Munish Mittal, Advocate, for the respondent.

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Jaspal Singh, J

Learned counsel for the appellant, while assailing impugned award/order dated August 05, 2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, 'RCT') has vehemently contended that the same is liable to be set aside as it has caused manifest injustice to the appellant. It has proved by way of cogent evidence that alleged incident is not covered within the ambit of untoward incident as defined under Section 123 (c)(2) of the Railways Act, 1989 (for short, 'Act') and Railway Administration is not liable to pay compensation in terms of provisions of Section 124-A of the Act. Misreading and misinterpretation of evidence has resulted into miscarriage of justice.

A claim petition was filed by respondent – applicant Neeru wife of Parkash, seeking compensation of ₹ 10 lac for injuries sustained by her in a train untoward incident. On February 24, 2008, she went Railway Station, Karnal alongwith her children for going to Meerut to attend the marriage of daughter of her paternal aunt (Bua). When train No.2 HNK came on platform No.1, she could not board it and fell down from the train, resulting in receiving injuries and amputation of leg. She was travelling on General Class Ticket No.09384813 dated February 24, 2008 for going from Karnal to Meerut City.

The claim petition was contested by the appellant. After hearing learned counsel for the parties and appreciating evidence on record, claim petitioner/application has been allowed by the RCT vide impugned award/order dated August 05, 2013 and compensation to the tune of ₹ 1,60,000/- has been granted to the claimant – injured on account of injuries sustained by her in the railway untoward incident alongwith simple interest @ 6% per annum from the date of filing of claim application till the date of order. Appellant – Railway Administration was allowed 60 days' time to make the aforesaid payment, failing which, the applicant – respondent was held entitled to simple interest @ 9% per annum from the date of order till actual payment.

Though, appellant has alleged that the alleged incident is not covered within the ambit of untoward incident as defined under Section 123 Act, but it has been established on record that respondent – applicant received multiple injuries on various parts of her body. She was taken to General Hospital, Karnal and her left leg below knee was amputated. Moreover, it is not the case of the appellant that respondent – applicant was

not in possession of a valid ticket. It has already come on record that she was travelling on General Class Ticket No.09384813 dated February 24, 2008. Thus, it is clear that the alleged incident was an untoward incident. The amount of compensation in respect of death/injuries is governed by the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990 as amended by 1997 Rules and in the case of injuries, compensation is regulated in terms of scheduled injuries and non-scheduled injuries. In the case in hand, respondent – applicant suffered injuries i.e. amputation of left leg below knee, therefore, said injury falls under scheduled injury at Sr. No.22 of Part-III of the Schedule Rule 3, for which, an amount of ₹ 1,60,000/- has been prescribed and has been rightly awarded by the RCT.

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 regulate 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 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.

April 16, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No