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

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Judgment delivered on: 12.04.2018

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FAO 170/2017 & C.M.No. 14642/2017

UNION OF INDIA

..... Appellant

Through: Ms. Shipra Shukla, Advocate.

Versus

MITHLESH & ORS.

..... Respondents

Through: Mr. Ajit Rajput, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns an order dated 20.12.2016 passed by the Railway Claims Tribunal (Tribunal), Delhi, granting compensation to the respondents-claimants on account of death of Mr. Sukhveer Singh, the husband, father and son of the respondents No. 1, 2 and 3 respectively. The Tribunal found the claim of the respondents valid and having been proven; that the deceased Mr. Sukhveer Singh with a valid ticket No.W75079416 for Rs.20/- had boarded a crowded train from Okhla to Mathura; that the only place he had for standing near the gate of the train compartment; that he fell down due to a sudden movement and violent jerk; that he received serious injuries all over his body. He was taken to AIIMS, where he succumbed to his injuries. The valid passenger ticket was produced and given to the

appellants. The contentions of the Railways that the deceased was not a *bona fide* passenger but a person seeking to relieve himself on or near the Railway tracks were found implausible because the deceased was a resident of Friends Colony, New Delhi, which was about three kilometres away from the accident site. The Tribunal found no reason as to why he would cross the track to the place where the body was found. The Tribunal also found it proven that the deceased had a ticket from Delhi to Kosi Kalan, which is a mid point on the way to Mathura. The Tribunal found it to be a plausible and rational explanation since Kosi Kalan is the place from where the onward journey to Mathura could have been undertaken, therefore, the theory of the ticket having been planted, was disbelieved, because if the appellant's plea of fabricated ticket was to be accepted, then the person so fabricating it could have produced a ticket all the way upto Mathura as well. Apropos whether the nature of injuries suffered by the deceased could be on account of a fall from the train, the Tribunal concluded in the affirmative and reasoned as under:-

“3.....There is a little doubt about the fact that it was only a train accident and he had not been dragged to the station as a dead body. The nature of injuries would show that he had grievous injuries on the body which is compatible with a fall from the train. There had been fracture of multiple ribs of the right side with extravasations of blood in soft tissues. There had been extravasations of blood under right temporal region. It is significant that the body was not cut into pieces and all the injuries are quite possible by a person falling from the train. If it was a fall from the train, the Train Register as well as the evidence of Aman himself will lend support to the fact that he could have travelled by EMU train that left Okhla at 4:58 AM.....”.

2. Since the two crucial and relevant aspects were proven by the claimants i.e. the deceased was a *bona fide* passenger with a valid ticket and that the nature of injuries and the attendant evidence showed that he had suffered fatal injuries on account of a fall from the train, the claim was allowed. A sum of Rs.4.00 lakhs was awarded as compensation. The said amount has been deposited in the Court and kept in an FDR. No monies have been released to the claimants despite their loss having occurred in 2013.

3. The learned counsel for the respondents submits that the DRM Enquiry was initiated in 2016 for an accident which occurred three years earlier. The Court is of the view that the said DRM Report would be of no consequence since all the relevant material would have been obliterated by that time. It could at best be an empty formality. For a DRM report in a railway accident, the inquiry ought to have been initiated immediately and not later than a day or two of the information of the accident/ untoward incident. Some form of inquiry which is started after three years of the untoward incident, can only rely on the records and extrapolate on the same. Such explanation can attempt to persuade but it would be of no evidentiary value. Reference is made to the decision of the Supreme Court dated 25.04.2017 in Civil Appeal No. 5608/2017, titled: ***Kalandi Charan Sahoo & Anr. vs General Manager, South-East Central Railways, Bilaspur.***

4. The learned counsel for the respondents states that the compensation so awarded has not been released to the respondent despite the claim having been made in 2015. He further states that in a similar appeal by the Union of India challenging the award of compensation by the Tribunal, the Court

while referring to the dicta of the Supreme Court in ***Rathi Menon vs. Union of India, (2001) 3 SCC 714***, which has been followed by the Division Bench of the Calcutta High Court in ***Bandana Mishra vs UOI (2017) ACE 484 (DB) (Cal.)*** re-iterated the well settled principle that the appeal is the continuation of the claim petition and the power of the Appellate Court is co-extensive with that of the Claims Tribunal. Referring to ***Sardar Tajender Singh Gambhir vs. Sardar Gurpreet Singh, 2014 (10) SCC 702*** and the principles of ***Rathi Menon*** (supra), the Court enhanced the compensation on the revised Schedule applicable to the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2016, as was applicable on the date of the decision by the High Court.

5. The current Schedule to the aforesaid Rules specifies a compensation amount of Rs.8,00,000/- on account of death due to railway accident. The Tribunal's reasoning for the conclusions arrived at does not call for any interference.

6. At the behest of the appellant, there has been a stay on the disbursal of the compensation amount awarded by the Tribunal on 20.12.2016. The proceedings are a continuation of the claim petition. The claim has to be allowed but the compensation must be in consonance with the aforementioned revised Schedule which specifies an amount of Rs.8.00 lakhs for fatality in a railway accident.

7. Accordingly, the amount payable to the claimants would be Rs. 8,00,000/- alongwith interest @ of 9% per annum on Rs. 4,00,000/- from the date of filing of the claim petition and interest @ of 9% per annum from today. In terms of the ratio of division of the compensation indicated in the Award, a sum of Rs.2,00,000/- will be payable to the mother and Rs.

3,00,000/- each will go to the widow and son of the deceased. From the amount deposited by the appellant, Rs. 75,000/- shall be paid to the mother and Rs. 1 lac to the widow in their respective bank account maintained near their place of residence. The remaining amounts of each party shall be kept in an interest bearing FDRs of Rs. 75,000/- each or part thereof to mature every successive year to enure to the benefit of the parties concerned. Upon maturity of such FDRs the principle amount along with interest shall be paid into the account of the parties concerned. Should the parties require monies for exigencies, it will always be open to them to approach the Court for directions. The additional amount of Rs. 4 lacs, along with interest accrued thereon hereinabove, shall be deposited and kept in FDRs in terms of the above within four weeks from today.

8. The appeal alongwith pending application stands disposed off in the above terms.

APRIL 12, 2018

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NAJMI WAZIRI, J.