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

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Date of Decision: 30th May, 2018

+ FAO 462/2011

KALIKA & ANR

..... Appellants

Through: Mr. N.K. Gupta, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Joydeep Mazumdar, Mr. Rohit Dutta, Mr. Kamlesh Kumar, Ms. Momota Bhattacharya, Ms. Priyata Chakraborty, Advs. for railways.

+ FAO 463/2011

KALIKA & ANR

..... Appellants

Through: Mr. N.K. Gupta, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Joydeep Mazumdar, Mr. Rohit Dutta, Mr. Kamlesh Kumar, Ms. Momota Bhattacharya, Ms. Priyata Chakraborty, Advs. for railways.

+ FAO 464/2011

KALIKA & ANR

..... Appellants

Through: Mr. N.K. Gupta, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Joydeep Mazumdar, Mr. Rohit Dutta, Mr. Kamlesh Kumar, Ms. Momota Bhattacharya, Ms. Priyata Chakraborty, Advs. for railways.

+ FAO 465/2011

KALIKA & ANR

..... Appellants

Through: Mr. N.K. Gupta, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Joydeep Mazumdar, Mr. Rohit
Dutta, Mr. Kamlesh Kumar, Ms.
Momota Bhattacharya, Ms. Priyata
Chakraborty, Advs. for railways.

+ FAO 488/2011

KALIKA & ANR

..... Appellants

Through: Mr. N.K. Gupta, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Joydeep Mazumdar, Mr. Rohit
Dutta, Mr. Kamlesh Kumar, Ms.
Momota Bhattacharya, Ms. Priyata
Chakraborty, Advs. for railways.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The appellants have challenged the judgments dated 26th July, 2011 whereby five claim applications for compensation have been dismissed by the Railway Claims Tribunal.
2. The appellants filed five claim applications before the Railway Claims Tribunal on the averments that Bachani Devi (wife of appellant No.1 in FAO 462/2011), Kripa Shankar (son of appellant No.1 in FAO 462/2011), Bindu (daughter-in-law of appellant No.1 in FAO 462/2011) and Pooja and Kalli

(grandchildren of appellant No.1 in FAO 462/2011) boarded an EMU Train no.GDP-3/GNP-3/64055 from New Town Railway Station, Faridabad for travel to Delhi on 13th January, 2010 after purchasing the tickets; the driver applied a strong brake as soon as the aforesaid train left New Town Railway Station, Faridabad due to which all the aforesaid persons fell down from the moving train opposite to the platform and after a minute, a superfast Rajdhani train came from opposite side and crushed the aforesaid five persons.

3. The Railways contested the claim on various grounds, inter alia, that the deceased persons were not travelling and were not *bona fide* passengers of any train; the timing of alleged EMU train at New Town Railway Station, Faridabad was 08:51-08:52 hours whereas Rajdhani Train No.2432 by which they were allegedly run over was 11:29-11:34 hours; the distance between the two tracks was more than eight feet and it was not possible for a person travelling in EMU to fall on the opposite track which is eight feet away.

4. The Railway Claims Tribunal observed that the appellants in their joint statement to the police (Ex.AW1/10) stated that the five deceased persons were going to catch the train when they were crushed by the train which is in clear contradiction of the statement made in the claim petition that the five persons fell down after boarding the train due to sudden brake/jerk. The Claims Tribunal further observed that the arrival and departure time of the EMU Train no.GDP-3/GNP-3/64055 as mentioned in the claim application was 08:51 and 08:52 hours respectively whereas the arrival and departure time of the Rajdhani train No.2432 was 11:29 and 11:34 hours respectively. The Claims Tribunal further observed that the

distance between the two tracks was more than eight feet and it was not possible for a person travelling in the EMU train to fall on the opposite track eight feet away. The Claims Tribunal rejected all the claim applications.

5. Learned counsel for the appellants urged at the time of hearing that the five deceased persons including the appellants boarded the EMU train and they fell down on the opposite side of the railway track and were crushed by the Rajdhani Express train coming on the opposite track. It is submitted that the deceased persons were *bona fide* passengers and were holding valid tickets which were lost during the accident.

6. Learned counsel for the respondents urged at the time of the hearing that the appellants were not *bona fide* passengers of any train; the case setup by the appellants was false; that the timing of the EMU train by which the deceased persons claim to have been travelling was 08:51-08:52 hours whereas the timing of the Rajdhani train No.2432 by which the deceased persons were crushed was 11:29 - 11:34 hours at New Town Railway Station, Faridabad ; if the deceased persons were travelling by the EMU train, they could not have been run over by Rajdhani train three hours later; the distance between two tracks was more than eight feet and a passenger of a train cannot fall on the adjoining track eight feet away and the speed of the train at the platform is so slow that the averment of strong jerk due to which five persons simultaneously fell down, is not believable.

7. This Court is of the view that the five deceased persons were not *bona fide* passengers of the EMU train as alleged by the appellants. Even assuming that the aforesaid five persons were travelling in the EMU train, all the five persons cannot fall together upon a jerk. The averment of jerk at the railway station is also not believable as all trains slow down at the platform.

That apart, the deceased persons could not have fallen on the adjoining track which is about eight feet away and the Rajdhani train No.2432 on the adjoining track came after more than three hours. The appellants have filed claims on false averments before the Claims Tribunal and are not entitled to any compensation.

8. There is no infirmity in the orders of the Claims Tribunal. The appeals are therefore, dismissed.

MAY 30, 2018
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J.R. MIDHA
(JUDGE)

