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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO 214/2017

JAGRAM & ORS

..... Appellant

Through: Mr. Ajit Rajput, Mr. Raj Kumar Rajput
and Mr. S.N. Pandey, Advs.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Shivankur Shukla, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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05.02.2018

The appellants had filed a claim for compensation on account of demise of their son Ashish @ Priyanshu whose dead body was found on the railway tracks near Kunj Braj Vihar between Km no.10/33 and 10/35.

It is the appellants' case that on 19.12.2013 while travelling from Ghaziabad to Old Delhi Railway Station on a second class journey ticket, their son fell down near the aforementioned spot, perhaps due to a sudden jolt received from inside the compartment of the train. He suffered grievous head injuries and died on the spot. His ticket was lost. The claim of him having left Ghaziabad for Delhi is on the basis of a telephone call made by him to his father, prior to his departure. The fact of his body being found near the railway tracks is not disputed since the local police had informed the Railway about

it. The mobile phone of the deceased was found near his body. However, the ticket was not found. No inquiry was done by the Railway. Indeed, one such inquiry was sought to be initiated after the claim petition was filed on 28.10.2014. The Inquiry Report under section 112 of the Railways Act, 1989 after a gap of almost 18 months would be of no consequence since the relevant evidence would obviously not be available after such a long gap. Accordingly, it could well be deemed to be of no value or consequence. Since the Railways had been intimated of the dead body near its tracks, the five exceptions under section 124-A of the Railway Act, 1989 would not be available to them.

The learned counsel for the appellants relies upon the decision of the Supreme Court in ***Kalandi Charan Sahoo and Anr. v. General Manager, South-East, Central Railways, Bilaspur***, Civil Appeal No. 5608 of 2017, decided on 25.04.2017, to the effect that where no inquiry as mandated by the Rules was conducted immediately after the incident had occurred, the claim would have to be allowed under section 124-A of the Railways Act, 1989.

In the present case, the inquiry having been initiated after a gap of 18 months and the report having been submitted two years thereafter, the same would be of no value. The DRM Inquiry Report was not proven either, by leading evidence. Hence it will be treated as non-existent. Accordingly, in the absence of an inquiry report, the appeal is fit to be allowed.

It is noteworthy that for the quantum of compensation, the claim would also need to be allowed in terms of the judgement of the

Supreme Court in *Rathi Menon v. Union of India*, 2000 (I) ACC 453 (SC), which held that the rate of compensation as applicable on the date the High Court adjudicates the appeal, would be awarded. As per the extant rules i.e. Schedule to the Railways Accidents and untoward Incidents (Compensation) Amendment Rules, 2016, the compensation for loss of life in a railway accident is Rs.8.00 lacs.

Accordingly, the claim is allowed. Rs.8.00 lacs shall be paid to the appellants within four weeks from today with interest @ 8% per annum from the date of the filing of the claim petition before the Railway Claims Tribunal.

The appeal is allowed in the above terms.

NAJMI WAZIRI, J

FEBRUARY 05, 2018/acm