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

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Date of Decision: 4th January, 2018

+ **FAO 54/2015**

MUKESH KUMAR & ORS

..... Appellants

Through: **Mr. Anshuman Bal, Advocate**

versus

UNION OF INDIA

..... Respondent

Through: **Mr. Joydeep Mazumdar, Lead
Counsel for Northern Railways with
Mr. Debojyoti Bhattacharya,
Mr. Kamlesh Kumar, Advocates.**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The appellants have challenged the judgment dated 03rd September, 2014 whereby the Railway Claims Tribunal dismissed the appellants' application for compensation.
2. The appellants are the widow, sons and daughters of late Krishan Murari. The appellants filed an application for compensation before the Railway Claims Tribunal claiming that Krishan Murari was going from Palam to Rewari in a passenger train on 16th November, 2012; he was standing near the gate and fell down due to heavy rush near Patli Railway Station.

3. The respondent contested the claim on the ground that the deceased was not a *bona fide* passenger. According to the Railways, the deceased was found crying on the platform stating that his sons and daughters-in-law have thrown him out of the house after beating him and he jumped in front of train No.54416 to commit suicide. The driver of the train stopped the train and the injured, Krishan Murari was taken to the Civil Hospital, Gurgaon from there he was shifted to Safdarjang Hospital, New Delhi, where Krishan Murari succumbed to his injuries in the course of his treatment.

4. The Claims Tribunal held that the deceased was not a *bona fide* passenger and the accident is not an untoward incident within the meaning of Section 123(c) of the Railways Act as he jumped in front of the train. The Claims Tribunal further observed that the deceased had not boarded any train, though a ticket was recovered from him. The Claims Tribunal further observed that the deceased was hit by Rewari Delhi Passenger Train No.54416 going in the opposite direction and not by the train in respect of which the alleged train ticket was recovered. The Claims Tribunal relied upon the DRM Report - Ex.R-1; statement of Station Master; statement of driver; statement of guard of the train as well as the statement of RPF constables. The relevant portion of the impugned judgment is reproduced hereunder:

“The respondent has filed the DRM report, Ex.R-1 which admits recovery of railway ticket no.93331 from Palam to Rewari from the injured person. Ex.A-3 and Ex.A-4 also show recovery of said ticket from the injured. The copy of RPF diary dated 16.11.12 enclosed with the DRM report records recovery of this ticket and the same has been certified to have been issued from Booking Office, Palam on 16.11.12 in 6.00 to 14.00 hours shift. However, as per the DRM report, inquiry in this case has received that one old person had jumped in front of

54416 Rewari – Delhi passenger train when the said train was entering Patli railway station at 14.32 hours and got entangled in the wheel of engine of the train. The driver stopped the train and the injured passenger was extricated from under the train. The driver informed the on duty Station Master Patli and Guard of the train. The passengers on the platform told that this old person was weeping on the platform saying that his sons and daughters-in-law have beaten him out of the house. The injured person was brought to Gurgaon by the same train and was admitted to Civil Hospital, Gurgaon from where he was referred to Safdarjang Hospital, New Delhi, where he died in the course of his treatment. The report of Inspector, RPF enclosed with the DRM report also states the same.

10. The statements of the Driver and the Guard of train no. 54416 Rewari – Delhi passenger are enclosed with the DRM report, Ex.R-1 stating that when the train was entering Patli railway station, an old man had jumped in front of the engine of the train and got entangled between the cattle guard and the wheel of the engine of the train and was extricated with the help of persons on the platform and was brought to Gurgaon railway station in the brake van of the same train. The statements of Karni Singh, on duty Station Master, Patli and Manoj Kumar, RPF constable, Gurgaon, who got the injured admitted in the Civil Hospital Gurgaon are also enclosed with the DRM report which corroborate the statements of the Driver and the Guard of the train. The DRM report which contains copy of the control message issued by on duty S.M. Patli on 16.11.12, copy of memo dated 16.11.12 issued by Station Master, Gurgaon, copy of register of RPF post, Gurgaon dated 16.11.12 relating to this incident and the copy of DD no.25 dated 16.11.12 of GRP, Gurgaon, which all show that one person had jumped in front of train no. 54416 when the train was entering Patli railway station and was brought to Gurgaon in the brake van of the same train. These documents clearly show that the deceased did not sustain injuries due to fall from the train while travelling from Palam to Rewari in a passenger train as averred by the applicants. On the contrary the incident occurred by 54416 Rewari- Delhi passenger train going in the opposite direction and because the deceased jumped in front of the train engine of the said train. Although a journey ticket from Palam to Rewari was recovered from the deceased, but he was not a bona fide passenger of the train

by which the incident occurred. Also the deceased did not sustain injuries due to any accidental fall from a passenger train amounting to an untoward incident with in the ambit of Section 123(c) of the Railways Act. In the circumstances, it is held that the applicants have failed to show that the deceased Krishan Murari was a bona fide passenger of the train at the time of the incident and this death was due to an accidental fall from a train amounting to an untoward incident with in the ambit of Section 123(c) read with Section 124-A of the Railways Act.”

5. Learned counsel for the appellants urged at the time of hearing that the deceased was going from Palam to Rewari in a passenger train with a valid ticket; he was standing near the gate; he fell down due to heavy rush/sudden jerk and suffered fatal injuries.

6. Learned counsel for the respondent urged at the time of the hearing that the deceased jumped in front of Rewari Delhi Passenger Train No.54416 to commit suicide. It is further submitted that the deceased was found crying at the platform before the alleged accident saying that he has been beaten by his sons and daughters-in-law who have thrown him out of the house. It is submitted that the deceased was not a *bona fide* passenger and the alleged accident is not an untoward incident.

7. The record of the Claims Tribunal has been perused. As per the report of the DRM-Railways, the deceased jumped in front of train No.54416- Rewari Delhi Passenger Train, which resulted in fatal injuries. The DRM has relied upon the statements of the Station Master, statements of driver and guard of the train and the statements of the Railway Police Force Constables. The statements annexed to DRM report have been perused.

8. This Court is of the view that the deceased was not traveling by any train and he jumped in front of the train. The deceased was not a *bona fide*

passenger and the alleged accident is not an untoward incident. Although a ticket was recovered from the deceased but he was not travelling by the alleged train. The train with which the deceased met with an accident was going in opposite direction. There is no infirmity in the well-reasoned findings of the Claims Tribunal.

9. There is no merit in this appeal, which is hereby dismissed.

JANUARY 4, 2018

**J.R. MIDHA
(JUDGE)**

