

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

-.-

**FAO 2554 of 1996 (O&M)**

Date of decision: 23.09.2019

*Smt. Rattan Kaur*

*.....Appellant*

***Versus***

*Union of India through the General Manager and another .....Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Vishal Munjal, Advocate  
for the appellant

Mr. Karmander Singh, Advocate  
for respondent No. 1

Ms Surbhi Kaushik, Advocate  
for respondent No. 2

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**Rekha Mittal, J. (Oral)**

Challenge in the present appeal has been directed against award dated 06.08.1996 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby application for grant of compensation in respect of death of Harjinder Singh son of Shri Mangat Singh in an untoward incident dated 20.08.1995 was allowed in favour of Smt. Paramjit Kaur widow of Shri Harjinder Singh but claim preferred by the appellant, admittedly, mother of the deceased has been rejected by negating her plea that she was dependent upon the deceased and falls within the purview of dependent defined under Section 123(b) of the Railways Act, 1989 (in short, 'the Act').

The sole submission made by counsel for the appellant is that

the Tribunal while disposing of issues No. 4 and 5 together has taken note of that husband of the appellant is alive and doing work of agricultural labour, therefore, she cannot be held to be dependent even partly upon the deceased, thus, not entitle to get compensation. It is further argued that since husband of the appellant is only an agricultural labourer, the same *ipso facto* proves that she was dependent upon her husband as well as her son Harjinder Singh (since deceased).

Counsel representing respondent No. 2 (wife of the deceased) has supported findings of the Tribunal on issue No. 4 with the submission that neither there is an averment in the claim application that the appellant was dependent upon the deceased nor she has adduced any such evidence, therefore, her claim has rightly been rejected while awarding compensation of Rs.2,00,000/- to widow of the deceased.

I have heard counsel for the parties and perused the paper book, particularly the award.

The relevant extract from para 11 of the award reads as follows:-

*“The parent, as per Section 123 (b) (ii) comes under the definition of dependent if the parent, wholly or partly is dependent on the deceased passenger. In the application of Smt. Rattan Kaur, no mention has been made that she was wholly or partly dependent on the deceased. Her main contention is that she being the mother, should be entitled to get the compensation. It has come in evidence that the husband of Smt. Rattan Kaur is alive and is doing the job of an agricultural labourer. In the presence of this fact alone as also*

*in the absence of any other evidence, the case for dependency of Smt. Rattan Kaur on the deceased passenger is not made out. On the other hand, the widow is a natural dependent within the parameters of Section 123 (b) (i) ibid and is entitled to claim compensation. There are no issues out of the marriage of the deceased as stated by Smt. Paramjit Kaur.*

Counsel for the appellant has not been able to controvert factual findings recorded by the Tribunal. The appellant being mother of the deceased could claim herself to be dependent under Section 123 (b)(ii), if she alleged and proved that she was either wholly or partly dependent upon the deceased. In the given circumstances, I do not find an error much less perversity in findings of the Tribunal on issue No. 4, on the basis whereof, claim of the appellant for compensation has been rejected while accepting plea of widow of the deceased that she was the only dependent upon income of the deceased.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

**(Rekha Mittal)**  
**Judge**

23.09.2019  
Mohan Bimbra

Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No