

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

366

FAO-2117 of 1998 (O&M)  
Date of decision: 22.10.2019

Union of India

... Appellant

Versus

Jaswinder Kaur and others

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. RK Vashistha, Advocate for  
Mr. G.S. Bajwa, Advocate for the appellant.  
Mr. Som Nath Saini, Advocate for the respondents.  
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**REKHA MITTAL, J. (Oral)**

Challenge in the present appeal has been directed against award dated 20.05.1998 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby compensation has been assessed on account of death of Jatinder Singh in an untoward incident that took place on 08.07.1997.

Jaswinder Kaur and others filed claim on the allegations that while commuting from Bhatinda to Rampuraphul in 336-down train on 8.7.1997, Jatinder Singh died in the accident and respondents/claimants are entitled to compensation to the tune of Rs.6,00,000/-. The Tribunal partly allowed the claim and awarded Rs.2,00,000/- with proportionate costs and interest @ 15% per annum in case compensation is not paid within 60 days from the date of award.

The sole submission made by counsel for the appellant is that the Tribunal did not frame issues particularly issue with regard to the deceased being a bona fide passenger of the aforesaid ill-fated train, therefore, a prejudice has been caused to the appellant to counter plea of the claimants with regard to their entitlement to compensation and as such, the

award may be set aside and the matter be remitted to the Tribunal for decision afresh after framing issues and permitting the parties to adduce evidence in regard thereto. In addition, it is argued that Jaswinder Kaur, widow of the deceased filed two affidavits wherein she raised contradictory pleas, if the deceased was travelling on a pass or after purchasing a second class ticket.

Counsel representing the respondents/claimants, on the contrary, would argue that proceedings before the Tribunal are summary in nature and the Tribunal has to formulate its own procedure for deciding the claim application. It is further argued that since the parties adduced evidence knowing fully well their warring claims, there is no question of any prejudice being caused to the appellant for want of framing of issues with regard to deceased being bona fide passenger of ill-fated train when otherwise the Tribunal in para 8 has specifically adverted to the said issue and answered the same in favour of the respondents/claimants. Counsel would further argue that as Jaswinder Kaur was not travelling with Jatinder Singh at the time of unfortunate occurrence, she was not expected to be sure if the deceased was travelling on a pass or second class passenger ticket. It is further argued that the appellant has not denied the seal and signature on duty pass issued to late Jatinder Singh as he was a Home Guard and performing duties with the Railway Police.

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

Counsel for the appellant has not disputed that proceedings before the Tribunal are summary in nature. He has failed to point out any

provision in the Railways Act that prescribes the procedure to be followed by the Tribunal. Perusal of the application filed by the respondents/claimants makes it evident that there is a specific plea that deceased died in the accident while commuting from Bhatinda to Rampuraphul on 8<sup>th</sup> July, 1997. The Tribunal, on a detailed consideration of materials on record, recorded its findings in para 8 of the award on the basis whereof conclusion was drawn that deceased was a bona fide passenger of ill-fated train on 8.7.1997. Since the appellant knew fully well the case set up by the respondents/claimants and defence plea raised by the Railway Administration, it is not open for the appellant to contend that award passed way-back in 1998 is liable to be set aside merely because the Tribunal has not framed an issue with regard to the deceased being a bona fide passenger in the ill-fated train. Counsel for the appellant has failed to advance any meaningful argument to assail findings of the Tribunal recorded in para 8 of the award on the basis whereof plea of respondents/claimants with regard to the deceased being a bona fide passenger of ill-fated train has been accepted. As has been rightly argued by counsel for the respondents, since Smt. Jaswinder Kaur, widow of the deceased was not accompanying the deceased at the time of unfortunate occurrence, she was not expected to be very sure if the deceased was travelling on the basis of pass issued by the Railway Authorities or a second class ticket purchased by him. In this view of the matter, the appellant cannot derive any advantage from the aforesaid contradiction in affidavits filed by Jaswinder Kaur.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no

merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

22.10.2019  
ashok

(REKHA MITTAL)  
JUDGE

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