

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

**FAO No.2430 of 1998(O&M) &
XOBJC-30-CII of 2000**

Date of decision: 18.12.2019

Union of India

.....Appellant

VERSUS

Devi Sahay

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Karmander Singh, Advocate for the appellant.

None for the cross -objector/respondent.

REKHA MITTAL, J.

Devi Sahay has been served on previous notice issued by the Court but there is no representation on his behalf.

This order will dispose of FAO No.2430 of 1998 and cross objections No.30-CII of 2000 as these have emerged out of the same award dated 24.08.1998 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal') whereby compensation has been awarded on account of death of S.C. Verma son of Devi Sahay in an untoward incident on 11.09.1996 when the deceased was traveling on IInd Class Duty Pass No.570785 dated 03.09.1996 ex. Dehradun to JUC and back.

Counsel for the appellant would argue that findings of the Tribunal on issues No.1 and 2 are not based upon correct appreciation of materials on record, therefore, liable to be set aside. It is argued that the

Tribunal has wrongly awarded Rs.2 lakh, to be shared by Devi Sahay and Smt. Shanti Devi, parents of deceased.

There is no representation on behalf of the respondent/cross objector.

I have gone through findings of the Tribunal on issues No.1 and 2 qua the deceased being bona fide passenger in the train and if accident falls within the ambit of Section 124-A of the Railways Act, 1989 (in short 'the Act') but find myself unable to accept contention of the appellant that findings of the Tribunal on aforesaid issues are faulty much less perverse. In this view of the matter, challenge against the award is not meritorious and accordingly rejected.

This brings the Court to cross objections filed by the respondent/claimant. Perusal of the cross objections would reveal that the same are objections to grounds of appeal filed by the appellant but without any prayer with regard to entitlement of the respondent to additional compensation. However, this Court in exercise of jurisdiction under Order 41 Rule 33 of the Code of Civil Procedure, 1908 (in short 'CPC') can modify the award in its endeavour to bring it in conformity with compensation that ought to have been granted by the Tribunal. The Act is a benevolent social legislation enacted to grant compensation for injuries or death of a bona fide passenger in an untoward incident. The occurrence in question took place on 11.09.1996. Application for grant of compensation was filed in August 1997 and award was made on 24.08.1998. By way of amendment in the Railway Accidents (Compensation) Rules, 1990 effective from 01.11.1997, compensation with regard to death of a bona fide passenger has been increased to Rs.4 lakhs. When the case is

examined in the light of judgment of Hon’ble the Supreme Court **Rathi Menon Vs. Union of India, 2001(3) RCR (Civil) 224**, the respondent shall be entitle to additional compensation to the tune of Rs.2 lakhs. Additional amount shall carry interest at the rate of 9% per annum from the date of award till realization, to be shared by respondent and his wife, in equal ratio.

For the foregoing reasons, the appeal and cross objections are disposed of with modification in the aforesaid terms.

DECEMBER 18, 2019
‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no