

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4045 of 2018 (O&M)

Date of decision : January 13, 2020

Union of India

....Petitioner

versus

Sonu

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Ms Kulwant Kaur Kahlon, Advocate, for the appellant

Mr. Narender Kaajla, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

The brief facts which are necessitated for disposal of the present appeal are that on 1.4.2014 Rani Devi deceased wife of Nakli Ram and who also happens to be mother of Sonu applicant along with Baby Devi while going to Sarsawa on train No. 54304 from Mustafabad with ticket No. 54936433 while the train was in motion she fell from the moving train at Platform No. 2 Jagadhri Railway Station and as a consequence of the injuries died instantly. The husband Nakli Ram now deceased along with son Sonu had

filed a claim petition under Section 16 of the Railway Claims Tribunal Act seeking compensation on account of this death of Rani Devi. The Railway Claims Tribunal, Chandigarh Bench, Chandigarh vide impugned findings dated 5.4.2018 allowed the claim and awarded the following amount:-

- | | |
|---|---|
| 1. Applicant No. 1, Sonu s/o late Shri Nakli Ram | Rs 4,00,000/-
(Rupees Four Lac only) |
| 2. Applicant, Sonia w/o Sh. Naresh, married – d/o late Shri Nakli Ram | Rs 2,00,000/-
(Rupees Two Lac only) |
| 3. Applicant Raj Kumari w/o Shri Surinder – d/o late Shri Nakli | Rs 2,00,000/-
(Rupees Two Lac only) |
| Total Rs 8,00,000/- | |

The appellant-respondent Union of India through its General Manager in their response by way of a written reply have taken the objections that the accident did not fall within the provisions of Section 123(c) read with Section 124-A of the Railways Act and termed the accident to be a false and concocted story and denied that the deceased was bonafide passenger on the said train. On the basis of the pleadings, the Tribunal framed the following issues:-

“1. Whether the deceased was a bonafide

passenger of train at the time of incident ?

2. Whether the alleged incident is covered within the ambit of Section 123 (c) (2) read with Section 124-A of the Railways Act ?

3. Whether the applicants are the sole dependents of the deceased ?

4. Relief.

The claimants examined one of the claimants Sonu as AW1 and sought corroboration to the averments through AW2 Baby Devi eye witness and placed on records documents Ex. A-1 to A-24. The respondent on the other hand did not lead any evidence except DRM's report, consequent upon which the impugned findings were recorded.

Heard counsel for the parties and perused the records.

The very stand of the respondent-appellant reflect that they clearly accept the fact that Rani Devi died as a consequence of a train mishap which occurred on 1.4.2014 leading to the death of the deceased while the train was approaching Jagadhri Railway Station. The testimony of AW2 Baby Devi eye witness to the accident corroborate the stand of the claimants. Counsel for the appellant could not convince how there has been proven fact that the deceased was not the bonafide passenger on the train or the

accident is not falling within the provisions of Section 123(c) read with Section 124-A of the Railways Act. The own documents of the Railway by way of fard makbujagi/fard peshkardagi bag/railway tickets proved as Ex. A6 to A10 shows that a valid train ticket of the train was recovered from the person of the deceased and there is nothing illustrative brought to the notice of the Court as to the very validity and genuineness of the said train ticket and therefore, in no uncertain terms that the deceased was bonafide passenger in the train who died in accident while travelling in train. More-so, the Tribunal has clearly drawn the conclusion that the evidence of the claimant is consistent and believable.

The claim of the son Sonu is corroborated by the affidavits of two daughters of the deceased namely Sonia and Raj Kumari who through their affidavits have accepted the fact that Sonu is the son and their legitimate claim to this compensation to which they have no objection. No doubt as has been argued on behalf of the appellant the accident has occurred on 1.4.2014 and therefore, the then existing amount of compensation payable for death and injuries of Rs 4 lacs is to be awarded. However, this Court seeks support from **Union of India vs Radha Yadav, (2019) 3 Supreme Court Cases 410; Union of India vs Rina Devi, 2018(3) R.C.R.**

(Civil) 40 and Union of India vs Dilip & Ors. Civil Appeal No. 9124 of 2019 decided on 29.11.2019 where it has been concluded that compensation payable is applicable as on the date of the accident with interest so considered reasonable from time to time on the same pattern as in accident claim cases and that if the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts and have held that being a beneficial legislation compensation provided on the date of award of the Tribunal if is higher than any revised amount with interest the higher of the two amounts is to be given. Reverting back to the present case, during the pendency of the claim application Ministry of Railways had doubled the amount of compensation payable to the railway accident victim and which new rule would come into effect from 1.1.2017 but in view of the welfare nature of the ratios *ibid*, counsel for the appellant could not convince this Court how the amount so awarded by way of Rs 8 lacs along with simple interest @ 6% per annum from the date of the filing of the claim application would be unjustified. Though the Tribunal has awarded interest @ 6% per annum simple from the date of claim application till the date of impugned order, this Court feels that being beneficial legislation

and might encourage the appellant Railways from delaying the actual payment, it would be in the interest of justice if the same be modified and the interest @ 6% per annum would be from the date of filing of the claim application till realization of the amount.

With this modification of the impugned award, the present appeal stands disposed of.

January 13, 2020
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No