



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

+ **FAO 47/2022**

Reserved on : 15.05.2023

Pronounced on : 26.05.2023

IN THE MATTER OF:

MALTI KUMARI & ORS.

..... Appellants

Through: Mr. Rajan Sood, Ms. Ashmia Sood
and Ms. Megha Sood, Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Subhash Tanwar, Mr. Sandeep
Mishra and Mr. Ashish
Choudhary, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J.

1. By way of the present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as the 'Act'), the appellants being the widow and minor children of deceased *Akash Kumar* have assailed the order dated 12.08.2021 vide which the claim application filed by them was dismissed.

2. Briefly, before the Tribunal it was claimed that on 12.01.2019, the deceased alongwith one *Kaptan Singh* after purchasing a joint journey ticket bearing No. 96191415 undertook a train journey from *Asaoti*



Railway Station to Mathura Junction Railway Station in Delhi Agra Cantt. Passenger Train No. 51902. As the train was overcrowded, not finding any seat, the deceased was standing near the door of the compartment. When the train was approaching *Mathura Junction Railway Station*, on account of sudden push by other passengers, the deceased fell from the moving train and died at the spot. During the physical search, journey ticket was recovered from the person of the deceased. However, the Tribunal disbelieved the incident to be an ‘untoward incident’.

3. Mr. Rajan Sood, learned counsel for the appellants has assailed the findings of the Tribunal by contending that during the pendency of proceedings before the Tribunal, the journey ticket was verified to be validly issued. Further, the body of the deceased was found on the railway track. He also submitted that in spite of above facts, the Tribunal erred in dismissing the claim application.

4. Per contra, Mr. Subhash Tanwar, learned counsel for the respondent defended the impugned order by submitting that the Tribunal rightly observed that the incident was not an untoward incident as the body was discovered after a gap of nearly three hours which creates a suspicion that the deceased didn’t fall from the moving train as claimed in the application.

5. A perusal of the claim application would show that it was averred that the journey was performed by the deceased after purchasing a joint journey ticket. The journey ticket was purchased from *Asaoti Railway Station*. Co-passenger namely *Kaptan Singh* appeared in the proceedings before the Tribunal and deposed that he and the deceased were residents



of the same village. On 12.01.2019, they together boarded the *Delhi Agra Cantt. Passenger Train No. 51902* after purchasing a joint journey ticket. While he got down at *Vrindavan* to visit the holy place, the deceased continued with his onward journey. He further deposed that on the day of the incident, there was heavy rush in the train for which reason they boarded different coaches and he got to know about the incident only on the next day. In cross-examination, he deposed that prior to the day of travel, the deceased stayed overnight at his residence and for which reason they undertook the said journey together. It was also stated that *Asaoti* was nearly 150-200 km away from the village of the deceased.

6. Before the Tribunal, the DRM Report was also filed wherein the factum of issuance of journey ticket No. 96191415 on 12.01.2019 was verified. The subject ticket was found to be issued on 12.01.2019 from *Asaoti Railway Station* at 08:39 hrs. The recovery of ticket from the person of the deceased was also mentioned in *Panchnama*.

The first information about the incident was reported at 16:38 hrs by the driver of Train No. 12918. As per the DRM Report, the subject train i.e. 51902 left the *Asaoti Railway Station* at 10:05 hrs and reached *Mathura Junction Railway Station* at 13:45 hrs. The Tribunal doubted the incident as there was delay of about 3 hours in reporting of the incident.

7. This Court cannot ignore the fact that the journey ticket was recovered from the body of the deceased. Concededly, journey ticket was also verified and the body of deceased was found on the railway line that is between *Asaoti Railway Station* and *Mathura Junction Railway Station*. This Court also finds strength in the contention of learned counsel for the appellant that the incident had taken place at a faraway



place from the residence of the deceased which gives credence to the fact that the incident occurred during the course of train journey. In view of the material and evidence placed on record, merely non-reporting of the incident for about three hours could not have been the ground for dismissal of the claim petition.

8. Accordingly, the appeal is allowed and the impugned order is set aside. The matter is remanded back to the Tribunal for awarding the compensation in terms of the Act within two weeks from today and for which purpose the matter would be listed before the Tribunal on 02.06.2023.

9. Appeal is disposed of in the above terms alongwith miscellaneous applications.

(MANOJ KUMAR OHRI)
JUDGE

MAY 26, 2023

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