

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

FAO 231/2019

Date of Decision: 07.02.2023

IN THE MATTER OF:

SUNITA PAL & ORS.

..... Appellants

Through: Mr. Sanchit Vashistha, Mr. M. Chaudhary and Mr. S. Pandit, Advocates

Versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Balendu Shekhar, CGSC with Mr. Sriansh Prakash, Mr. Krishana Chaitanya and Mr. Raj Kumar, Advocates
Mr. Jitendra Kr. Singh and Ms. Anjali Kumari, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellants/claimants have assailed judgment dated 04.10.2018 passed by the Railway Claims Tribunal, Principal Bench, Delhi in Claim Application No.OA(Ilu)207/2017, whereby the claim application filed on their behalf has been dismissed.

2. Learned counsel for the appellants has contended that in the impugned judgment, the deceased was wrongly held not to have been a *bonafide passenger*, despite the fact that the journey ticket was recovered

and the factum of recovery was reflected in the *panchnama* prepared by the respondents' officials.

3. Learned CGSC for the respondents, on the other hand, has supported the impugned judgment and contended that the Tribunal rightly disbelieved the *panchnama* on account of different handwritings appearing in it.

4. I have heard learned counsels for the parties and perused the material placed on record.

5. A perusal of the case records would show that in the claim application filed by the appellants, it was stated that after purchasing a valid journey ticket, deceased/*Naresh Pal* had undertaken a train journey from *New Delhi Railway Station* to *Kanpur Central* on 13.06.2017. On the intervening night of 13/14.06.2017, *Naresh Pal* had fallen from the running train due to sudden jerk and thrust of the crowd at *Aligarh Junction Railway Station* near *Alam Bagh*.

After hearing the submissions, the Tribunal had allowed the appellants' claim application. However, at the time of passing of order dated 30.05.2018, the Tribunal entertained a doubt as no DRM Report was received by it. On the said date, the case was re-opened *suo moto* and it was directed that the DRM Report be drawn and the police investigation be completed.

Apparently, no DRM Report came to be filed. However, the Tribunal vide the impugned judgment arrived at a different conclusion entirely on account of the fact that different handwritings appeared in the *panchnama*.

6. It is noted that on 07.09.2018, the Tribunal had called CW-1 (*Shri Bhudev Singh, S.I.*), who was examined by the Tribunal as well as by the learned counsel for respondents. The aspect of different handwritings appearing in the *panchnama* was put to the witness, however, he failed to tender any explanation. It is recorded in the impugned judgment that when the witness was enquired in this regard, he replied that he did not know correctly or he did not remember.

Notably, alongwith their written statement filed in response to the claim application, the respondents also placed on record a verification report dated 24.05.2018 in which the said journey ticket was stated to have been verified. It was found to have been issued at New Delhi Railway Station on 13.06.2017 at 21:39 hours.

Merely on the basis that different handwritings appeared in the *panchnama*, in which the recovery of the journey ticket has been shown, the claim application was dismissed.

7. The respondents have neither filed the DRM Report nor placed on record any material which would show that the journey ticket was not issued or the deceased had not travelled on the valid journey ticket. In the considered opinion of this Court, once the factum of recovery of the journey ticket is mentioned in the *panchnama* which is drawn by the respondents, the burden to explain different handwritings in it was entirely on the respondents, which they have failed to discharge. The claimants cannot be non-suited on this account and the impugned judgment deserves to be interfered with.

8. In view of the foregoing discussion, the appeal is allowed and the impugned judgment dated 04.10.2018 is set aside. The matter is
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remanded to the concerned Tribunal for awarding compensation to the appellants in accordance with law. Let the matter be listed before the Tribunal on 20.02.2023 at the first instance and the compensation amount be released to the appellants/claimants within two weeks thereafter.

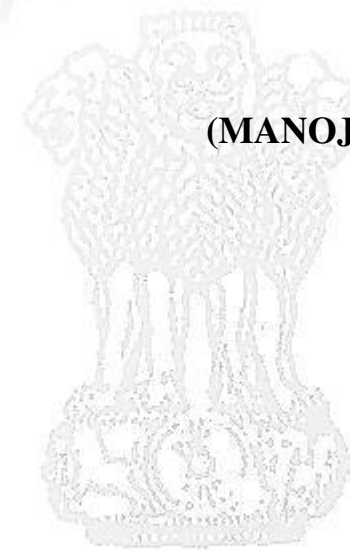
9. The appeal is disposed of in the above terms.

10. The Registry shall communicate a copy of this judgment to the concerned Tribunal for information.

(MANOJ KUMAR OHRI)
JUDGE

FEBRUARY 07, 2023

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