



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

+ **FAO 172/2014**

Reserved on: 15.03.2023

Pronounced on: 05.07.2023

IN THE MATTER OF:

RAM PRATAP & ANR.

..... Appellants

Through: Mr.Manoj Sharma, Advocate

versus

UNION OF INDIA(MINISTRY OF RAILWAY)

THROUGH ITS GENERAL MANAGER Respondent

Through: Ms.Leena Tuteja, CGSC with
Ms.Ishita Kadyan, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J.

1. By way of present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter, referred to as the 'Act'), the appellants seek to assail order dated 08.01.2014 passed by Railway Claims Tribunal, Principal Bench, Delhi in OA(IIu)008/2013, whereby the claim application filed by the appellants was dismissed.

2. Learned counsel for the appellants contended that in spite of the two journey tickets (for the forward and return journey) having been recovered from the person of the deceased, the claim of the appellants has been denied by the Tribunal.



3. Per contra, learned CGSC for the respondent, while defending the impugned order, contested the present appeal by submitting that the Tribunal rightly rejected the claims of deceased having been a *bonafide passenger* and the incident an 'untoward incident'.
4. I have heard learned counsels for the parties and gone through the material placed on record.
5. From a reading of the material on record, it is apparent that the claim application was filed by the appellants, claiming that their son- *Vivek Gaur* (deceased) undertook a train journey on 05.06.2012 by a local train from *Sahibabad* to *Delhi Shahdara* railway station and when the train reached near *Chanderpuri Gandhi Nagar* at Km 2/11-13, he accidentally fell down from the moving train and died on the spot.
6. The Tribunal, while referring to DD No. 3PP, doubted the recovery of journey tickets by observing that the Rail police, Shahdara started fabricating the records soon after the recovery of unidentified body. Reportedly, the tickets were recovered from inside an envelope of a marriage invitation card, in which regard, father of the deceased-*Ram Pratap* testified that the marriage card recovered from the body of the deceased pertained to marriage of his niece and the same was to be delivered by the deceased to one of the relatives.
7. A perusal of the record would also show that the tickets were verified and found to be issued at 12:18 hours on 05.06.2012. Although the journey was undertaken with some delay on the said day, the appellants in their testimonies have explained that after purchasing the journey tickets, the deceased went home for some personal reasons and thereafter came back to undertake his journey in the evening. In the



opinion of this Court, once the journey tickets have been found to be validly issued, the deceased ought not be denied the status of having been a *bonafide passenger* only because there was gap of a few hours between the time of issuance of tickets and that of journey undertaken.

8. Insofar as the question as to whether the incident is covered under the definition of '*untoward incident*', it is noted that the body of the deceased was found at Km 2/11-13. The only contention raised by the respondent is that body was found at the place beyond the destination station. The claimants explained the issue by stating that the deceased could not disembark the train at destination station due to heavy rush. The Tribunal found justification in the explanation but did not accept it as it had doubted the recovery of tickets. This Court having taken the view that the deceased was a *bonafide passenger* at the relevant time, the Tribunal's non-acceptance of the claimants' explanation calls for interference.

9. At the same time, the Tribunal's observation that no co-passenger of the deceased alerted the authorities about the incident and its opinion that the same makes the claim averments unbelievable, is fallacious and liable to be rejected in the facts of the case.

10. In view of the above discussion, this Court is of the considered opinion that the Tribunal erred in rejecting the claim application of the appellants. Accordingly, the appeal is allowed and the impugned order is set aside.

11. The matter is remanded back to the Tribunal for awarding compensation in terms of the Act, for which purpose the matter shall be listed at the first instance before the Tribunal on 17.07.2023. Let the



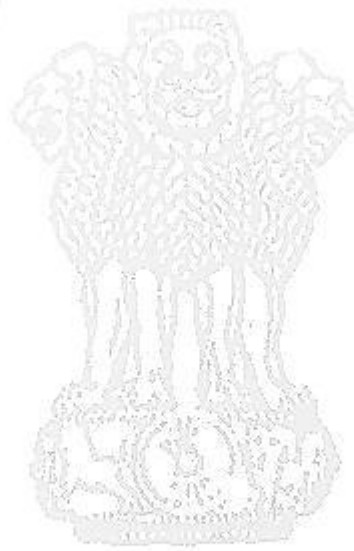
compensation amount be paid to the appellants/claimants within two weeks thereafter.

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

13. A copy of this judgment be communicated to the concerned Tribunal for information.

(MANOJ KUMAR OHRI)
JUDGE

JULY 05, 2023/v



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