

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO No.1351 of 2001 (O&M)

Date of Decision:11.03.2024

Union of India

...Appellant

Versus

A Thassiah and others

...Respondents

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Argued by:- Mr. Chander Mohan Sharma, Senior Panel
Counsel, Government of India
for the appellant-UOI.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment handed down by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal) on 11.10.2000, whereby Application Nos. OA-II/175 & 176 of 1999, as filed by respondents No.1 & 2-applicants, the parents and respondent No.3-applicant, the wife, of Selwin Christodass T. respectively (the respondents would, here-in-after, be referred as 'the claimants'), have been allowed and the claimants have been granted total compensation to the tune of Rs.04 (four) lac, along-with interest @ 12% per annum from the date of filing of the afore-referred Applications till its payment, the appellant-UOI through General Manager, Northern Railways (arrayed as the respondent in both the Applications), has preferred the instant appeal to lay challenge to the same.

2. Shorn and short of unnecessary details, the facts, as emerging from the perusal of the file and culminating in the filing of the present appeal, are that the claimants had filed the above-mentioned Applications for seeking

the compensation on account of the death of said Selwin Christodass T, while averring that on the ill-fated day, i.e 26.11.1998, the afore-named deceased was travelling in Train No.3152 Dn. Frontier Mail and it (Train) collided with Sealdah Express Train near Khanna and he sustained injuries in this untoward incident which proved fatal for him. The respondent filed written-statements in the above-said Claim Applications, controverting the claim of the claimants therein on various grounds. Then, the parties were put to the trial by framing the issues and after appreciating and evaluating the evidence as led by them on the record and hearing their respective counsel, the Tribunal has granted the compensation to the claimants vide the impugned judgment, as already indicated in the opening para of this judgment.

3. I have heard learned counsel for the appellant-UII in the instant appeal and have also perused the file carefully.

4. Learned counsel for the appellant-UII has contended that the deceased was not a *bona-fide* passenger of the afore-referred Train because no Railway Ticket or Pass or Concession-Voucher was recovered from his dead-body and it being so, the claimants were not entitled to seek the compensation from the respondent on account of his death but vide the impugned judgment, the Tribunal has wrongly awarded the above-mentioned amount to them, as compensation and hence, this judgment deserves to be set-aside.

5. However, the afore-raised contention does not hold much water because while returning the findings on issue No.1 qua the deceased being a *bona-fide* passenger of the above-said Train, the Tribunal has categorically observed that the Army Authorities had confirmed the issuance of Concession -Voucher to the deceased for the journey from Jammu Tawi to Tiruchirapalli

and the respondent-Railway Administration had been directed to produce the Conductor's Chart of Coach S-7, along-with the Conductor but it (respondent) had not complied with this direction nor had produced any evidence to show its inability to comply with the same. The afore-said Chart and the testimony of the Conductor could have clinched the entire controversy in respect of the exchange of the Concession-Voucher by the deceased for his journey by the above-referred Train which would have, further, facilitated the Tribunal and this Court as well, in ascertaining as to whether he (deceased) was a *bona-fide* passenger of the afore-said Train or not but the appellant has failed to produce the same in the Tribunal despite the fact that the above-referred Chart was a part of its own record and the Conductor also happened to be its employee and thus, it becomes explicit that it (appellant) has with-held the best possible evidence from being produced on the record, for the reasons best known to it. In these circumstances, an adverse inference has to be drawn against the appellant to the effect that if produced before the Tribunal, the afore-discussed evidence would not have supported its assertion qua the deceased not being a *bona-fide* passenger of the above-mentioned Train.

6. As a sequel to the fore-going discussion, it follows that the impugned judgement does not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the same is upheld and the appeal in hand, being *sans* any merit, stands dismissed.

11th March, 2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No