

2024:PHHC:031541

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

216-1

CWP-25916-2019

BIMLA AND ANOTHER

... Petitioners

VERSUS

UNION OF INDIA

... Respondent

A N D

216-2

**CWP-35388-2019
Date of Decision: 28.02.2024**

SUDHA AND ORS

... Petitioners

VERSUS

UNION OF INDIA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Atul Bhatia, Advocate
for the petitioner(s).

Mr. Parveen Chander Goyal, Advocate
for the respondents in both cases.

VINOD S. BHARDWAJ, J. (ORAL)

Both these writ petitions are being decided by a common order as the principal issue which arises is identical. The facts are, however, extracted from CWP-25916 of 2019 titled as 'Bimla and another Versus Union of India'.

Learned counsel for the petitioner contends that the petitioners are widow and mother respectively of the deceased Mahesh, who had died on the

railway premises on account of negligence on the part of the Railways. It is contended that on 25.12.2016, the deceased and his wife Bimla were to go to meet Parmanand Sharma-brother-in-law of deceased and residing in Badli. They left their home at around 07.00 a.m. to reach the Railway Station, Rohtak. They purchased the railway tickets from the Railway Station from Rohtak to Sampla and were taking stairs of the railway over-bridge to reach the other side i.e. the platform No.2 and 3 for boarding the train. When they reached the railway over bridge, there were monkeys creating terror on the railway over bridge. Since there was rush on the bridge, the monkeys started jumping and taking on the crowd. There was chaos due to fear and on account of the inadequate safety measures installed by the railways, Mahesh fell over from the railway over bridge onto the cemented bench kept at the platform. He received head injuries in the said untoward incident and died as a result thereof.

The incident in CWP-35388-2019 pertains to the injured Jagdeep Singh, who suffered amputation of his legs on account of his foot getting entangled in the railway track and being run over by the train.

The incidents in question are not disputed by the respondent-Railway in the manner as claimed.

Learned counsel for the petitioner contends that the negligence on the part of the respondents is well established and that the incidents in question took place on the railway premises owing to the inadequate safety measures installed by the respondents to protect the lives of the commuters/passengers. Learned counsel for the petitioner(s) places reliance on the judgment of Hon'ble Supreme Court of India in the matter of ***M/s Gas Authority of India***

Ltd. Versus M/s Indian Petro Chemical Corporation and others reported as **(2023) 3 SCC 629** to contend that mere availability of an alternative remedy is not a bar to the jurisdiction of the High Court. He further places reliance on the judgment of the Hon'ble Supreme Court in the matter of *Anil Kumar Gupta Vs. Union of India and others* reported as **AIR 2016 (Supreme Court) 3171** wherein compensation had been disbursed to the injured/victims of accidents that had taken place due to negligence on the part of the statutory Authorities.

Counsel for the respondents, on the other hand, does not dispute the proposition laid down in the abovesaid matter, however, he contends that question of determination of negligence and compensation and/or entitlement of respective petitioners including the right of apportionment is a disputed question of facts, which cannot be gone into by this Court in exercise of its writ jurisdiction and that the petitioner(s) would have the remedy to approach the Civil Court/alternative Forum which is most appropriate remedy for the petitioners.

Since the factual aspect in the case as noticed above is not disputed and it is evident that appropriate and adequate security arrangements have not been put in place by the respondents and at the same time it is also undisputed that the question of determination of quantum of compensation would require adducing evidence, for which this Court is not fully equipped, the present writ petitions are accordingly disposed of with a direction to the respondents-Railways to pay an interim compensation of Rs.8,00,000/- to the petitioners in CWP-25916 of 2019 and Rs.4,00,000/- to the petitioners in CWP-35388-2019, as is admissible to the other victims, as per the Railways

Rules. The petitioners would be at liberty to approach the Civil Court for seeking enhancement of the compensation, if so advised.

Petitions stand disposed of accordingly.

Photocopy of this order be placed on the file of another connected case.

FEBRUARY 28, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No