



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116

FAO-5845-2018
Date of decision : 11.12.2024

Yameen and others Appellants

versus

Union of India and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Narender Kaajla, Advocate
for the appellants.

Mr. Brijeshwar Singh Kanwar, Senior Panel Counsel
for the respondent-UOI.

PANKAJ JAIN, J. (Oral)

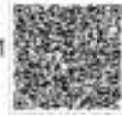
1. Present appeal is directed against award dated 09.10.2017 passed by Railway Claims Tribunal, Chandigarh Bench whereby though the deceased Hashim has been held to be a bonafide passenger and is proved to have died in an untoward incident, but the claim petition has been rejected for want of proof of relationship between the claimants and the deceased.

2. Tribunal framed issue No.3 which reads as under:-

“Whether the applicant(s) is/are the sole dependent(s) of the deceased?”

3. Finding thereupon were returned as under:-

“In para 2 of the evidence affidavit of AW-1, the deponent has testified that he is father of deceased Hashim ; applicant no. 2 is the mother ; applicant no. 3 is the wife and applicant no. 4 is the minor daughter of the deceased. To prove their relationship with the deceased, the applicants have placed on record copy of family ration card in the name of Yameen as



Ex. AW-1/23, wherein, Hashim is mentioned as son of Yameen and Nafeeza. The applicants have also placed on record copies of Election Cards of applicants no. 2 and 3 as Ex. AW-1/24 and AW-1/25. In Election I.Card of applicant no. 2, her husband's name is mentioned as Moh. Yameen and in the Election I.Card of applicant no.3, her husband's name is mentioned as Hashim. However, their dates of birth and months have not been mentioned in these documents and only years of birth have been mentioned. These documents appear to be false and, therefore, no reliance can be placed on the same. The applicants, therefore, cannot be held to be the dependents of the deceased and the issue is decided accordingly against the applicants.”

4. Counsel for the appellants submits that the claimants have been non-suited only for the reason that their dates of birth and months were not mentioned in the documents produced on record in form of ration card and election I card etc.

5. The locus to file petition seeking compensation on account of injury and death of the persons involved in an accident/untoward incident involving railways is governed by Section 123 read with Section 124-A of the Railways Act, 1989 which read as under:-

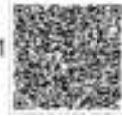
“123. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) “accident” means an accident of the nature described in section 124;

(b) “dependent” means any of the following relatives of a deceased passenger, namely:—

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependent wholly or partly on the deceased passenger;(iii)a minor child of a pre-deceased daughter, if wholly dependent on the



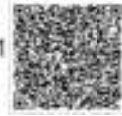
- deceased passenger;
- (iv) the paternal grand parent wholly dependent on the deceased passenger;
- (c) “untoward incident” means—
- (1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
- (ii) the making of a violent attack or the commission of robbery or dacoity; or
- (iii) the indulging in rioting, shoot-out or arson,
- by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or
- (2) the accidental falling of any passenger from a train carrying passengers.

124A. Compensation on account of untoward incidents.—

When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependent of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only of loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

- (a) suicide or attempted suicide by him;
- (b) self-inflicted injury;
- (c) his own criminal act;
- (d) any act committed by him in a state of intoxication or insanity;
- (e) any natural cause or disease or medical or surgical



treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.”

6. In the present case, the claimants specifically pleaded in their claim petition that they were all dependents upon earnings of the deceased. Claimants No.1 and 2 were his old parents. Claimant No.3 was his widow and claimant No.4 is minor daughter. The said fact was reiterated by Yameen-claimant No.1, when he stepped into witness box. He was subjected to cross-examination, not even a suggestion was put to him that neither of the claimants was dependent upon the deceased. The said testimony of the claimants has gone unrebutted. The relationship was further corroborated by producing documentary evidence in form of election I card and ration card. Age of the none of the claimants was in dispute and thus the Tribunal ought not have rejected the claim of the claimants merely for the reason that the documentary evidence did not contain their date of birth. Apart from that, Section 58 of the Evidence Act provides for mode of proving the relationship. Claimant No.1 in his affidavit specifically claimed to be the dependent parents of the deceased. Thus, Tribunal ought not have dismissed the claim petition returning finding on issue No.3, which is unsustainable and deserves to be set aside. As a sequel of the discussion held hereinabove, findings on issue No.3 are hereby set aside.

7. The compensation has to abide by dictum of law laid down by Supreme Court in ***Union of India vs. Rina Devi, 2019 (3) SCC 572*** wherein Supreme Court observed as under:-

“15.4 Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so



calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (supra) and Kalandi Charan Sanhoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (supra) holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.”

8. In view of above, present appeal is allowed. Claimants are held entitled for sum of Rs.8 lakhs. Appellant No.1 and 2 will be entitled for Rs.1 lakh each. Rs.6 lakh shall be kept in fixed deposit which shall be payable to appellant No.3 after she attains majority.
9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

11.12.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No