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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.R.P. 330/2024, CAV 555/2024, CM APPL. 66249/2024,**
UNION OF INDIA

.....Petitioner

Through: Mr. Devashish Bhadauri, Sr. Panel
Counsel for UOI.

versus

SONU SINGH

.....Respondent

Through: Ms. Aruna Mehta, Advocate.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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13.11.2024

CM APPL. 66250/2024 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

C.R.P. 330/2024

3. A Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 has been filed by the Petitioner against the Order dated 11.07.2024 vide which the application under Order VII Rule 11 CPC of the Petitioner (Defendant No.2 in the main suit) has been dismissed.
4. The Respondent/Plaintiff had filed a Suit for Compensation against the Railway on the averments that there was negligence on the part of the Railways and the compensation was payable on account of the tortious liability.
5. An application under Order VII Rule 11 CPC was filed by the Defendant No.1, who is Respondent No.2 for rejection of the Suit by claiming it to be barred under Section 124 and 124A of the Railway Act.



6. An identical Application has been filed on behalf of the Revisionist/Defendant No.2, wherein the same plea has been taken.
7. Submissions heard.
8. The learned Trial Court vide detailed Order dated 21.09.2022 referred to the judgments of Rathi Menon vs. UOI 2001 ACJ 721 SC; P.A. Narayanan vs. UOI, AIR 1998 SC 1659 and UOI vs. Tilak Raj Singh 2018 (250) DLT 177, wherein it has held that the remedy under Common Law for claiming compensation on tortious liability of negligence, would not be barred as it is up to the passenger to elect whether to file a Claim under the Railways Act or to seek compensation under the Civil law. The parties have two alternatives, one to avail the civil remedy to claim compensation based on Common Law or any other statutory provision and the other is to apply before the Claims Tribunal under Section 124 or 124A of the Railways Act. It was thus, held that the Application under Order VII Rule 10/11 CPC filed on behalf of Defendant No.1, was not maintainable.
9. The learned District Judge, vide Impugned Order dated 11.07.2024 has rightly dismissed the Application under Order VII Rule 11 CPC by observing that the Court in its Order dated 21.09.2022 had already given a finding that the suit was maintainable as it is the option of the party to claim compensation under the Civil Law or the statutory enactment.
10. There is no merit in the present Revision Petition, which is hereby dismissed.
11. The Revision Petition stands disposed of along with the pending applications.

NEENA BANSAL KRISHNA, J

NOVEMBER 13, 2024/va