

(2017) 04 DEL CK 0074

In the Delhi High Court

Case No : 7553 of 2015

HAJARA & ORS.

APPELLANT

Vs

GOVERNMENT OF INDIA

RESPONDENT

Date of Decision : 17-04-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 304A](#) - Causing death by negligence
[Railways Act, 1989](#), [Section 124](#), [Section 123\(c\)](#) - Extent of liability - Defini

Citation : (2017) 04 DEL CK 0074

Hon'ble Judges : J.R. Midha

Bench : SINGLE BENCH

Advocate : Anshuman Bal, Pinky Anand, Om Prakash, Somoya, Rajeshwar Singh, Shruti Sharma, A.S. Chandhiok

Judgement

1. On 26th November, 2013 at about 12:18 a.m., a goods train (Parcel Van No.VPH/SC/04840) broke the dead end of the railway track at Old Delhi Railway Station and thereafter hit the boundary wall of the railway station whereupon the boundary wall of the railway station collapsed and three persons sleeping on the pavement outside the boundary wall of the Railway Station were crushed to death under the boundary wall. The police registered FIR No.265/2013 at P.S. Old Delhi Railway Station under Section 304A IPC. The police identified Shahnawaj @ Jahanavaj who died due to the aforesaid accident. However, the two other dead bodies could not be identified by the police. The police filed the chargesheet against four employees of the Railways in which charges have been framed by the Court and the case is pending before the Metropolitan Magistrate. The Railways conducted an enquiry in which they found Panni Ram, Ashok Kumar, Nafe Singh and Srinivas guilty and the minor punishment was imposed upon them.

2. The petitioners are widow and sons/daughters of late Shahnawaj and they filed an application for compensation before the Railway Claims Tribunal which

was contested by the Railways on the ground that the accident was not an "untoward incident" under Section 123 (c) of the Railways Act and therefore, the petitioners were not entitled to any compensation under Section 124A of the Railways Act, 1989.

3. Vide judgment dated 28th October, 2014, the Railway Claims Tribunal accepted the objection of the Railways and dismissed the claim application holding that the accident did not fall within the ambit of Sections 124 and 124A of the Railways Act, 1989.

4. The petitioners have invoked the writ jurisdiction of this Court for compensation for the death of late Shahnawaj in the accident dated 26th November, 2013.

5. Ms. Pinky Anand, learned Additional Solicitor General on behalf of the Railways submits that the Railways do not dispute the death of late Shahnawaj in the accident dated 26th November, 2013. It is also not disputed that the police has filed a chargesheet against the four accused persons, namely, Panni Ram, Ashok Kumar, Nafe Singh, and Hari Nandan Shah Akela under Section 304A IPC and the case is pending before the Court of Metropolitan Magistrate.

6. Since the deceased was not a passenger in the train, Sections 124 and 124A of the Railways Act have no application and the petitioners are entitled to compensation under the ordinary law of torts.

7. The law with respect to computation of compensation in such cases is well settled. The multiplier method has been accepted as legally sound method for determining compensation in death cases by the Supreme Court in *Lata Wadhwa v. State of Bihar*, (2001) 8 SCC 1997; *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy*, AIR 2012 SC 100 and Delhi High Court in *Jaipur Golden Gas Victims Association v. Union of India*, 164 (2009) DLT 346; *Nagrik Sangarsh Samiti v. Union of India*; *Ram Kishore v. M.C.D*, 2007 (97) DRJ 445; *Ashok Sharma v. Union of India*, 2009 ACJ 1063. Reference be also made to *Gobald Motor Service Ltd. v. Veluswami*, 1962 (1) SCR 929, *Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole*, AIR 1969 SC 128, *Ishwar Devi Malik. v. Union of India*, ILR (1968) 1 Delhi 59, *Lachman Singh v. Gurmit Kaur*, I (1984) ACC 489 (SB), *Lachman Singh v. Gurmit Kaur*, AIR 1979 P&H 50, *Bir Singh v. Hashi Rashi Banerjee*, AIR 1956 Cal. 555.

8. In *Lata Wadhwa v. State of Bihar* (supra), a fire broke out in a factory in which sixty people died and one hundred and thirteen got injured. The Supreme Court awarded compensation to the victims on the basis of the multiplier method. In *Jaipur Golden Gas Victims Association v. Union of India* (supra), the Division Bench of this Court awarded compensation to the victims of fire tragedy by applying the multiplier method. In *Ashok Sharma v. Union of India* (supra), six children lost their lives by drowning and the compensation was awarded by applying the multiplier method. In *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy*, (supra) 59 persons died in Uphaar tragedy in 1997

and the Supreme Court granted compensation on the basis of multiplier method.

9. In the present case, the deceased Shahnawaj was aged 39 years at the time of the accident as per the election card produced before this Court on 20th February, 2017. The deceased was a bookseller. However, there is no proof of his income and therefore, the minimum wages of Rs.8,086/- per month in respect of an unskilled person are taken into consideration and 50% is added towards inflation. The deceased has left behind six legal representatives and therefore, 1/4th is deducted towards his personal expenses. The deceased was aged 39 years and the appropriate multiplier at the age of 39 is 15.

10. Taking the minimum wages of Rs.8,086/- as income of the deceased, adding 50% towards inflation, deducting 1/4th towards his personal expenses and applying the multiplier of 15, the loss of dependency is computed as Rs.16,37,415/-. Rs.50,000/- is awarded towards loss of love and affection, Rs.50,000/- is awarded towards loss of consortium, Rs.50,000/- towards loss of estate and Rs.12,585/- is awarded towards funeral expenses. Total compensation is computed as Rs.18 lakh along with interest @ 9% per annum from the date of filing of this petition i.e. 23rd July, 2015.

11. In the peculiar facts and circumstance of this case, the writ petition is allowed and the compensation of Rs.18 lakh along with interest @ 9% per annum is awarded to the petitioners.

12. The respondent is directed to deposit the compensation amount along with upto date interest with UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Hajara within 30 days.

13. The order for disbursement of the compensation amount shall be passed after examining the petitioners who shall remain present in Court on the next date of hearing along with the passbooks of their savings bank accounts near the place of their residence as well as Aadhar cards and PAN cards.

14. List on 26th May, 2017.

15. Copy of this judgement be given dasti to counsel for the parties under the signature of the Court.