
(2001) 06 GAU CK 0034
In the Gauhati High Court
Case No : M.A. (F) No. 129 of 1998

Madhumita Sharpa

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-06-2001

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 16

Citation : (2002) 1 GLT 154

Hon'ble Judges : J.N. Sharma, J;A.H. Saikia, J

Bench : Division Bench

Advocate : H. Rahman and N. Barman, for the Appellant; J. Singh, S.C., for the Respondent

Judgement

J.N. Sarma, J.—This appeal has been filed against the judgment dated 26.3.98 by the Railway Claims Tribunal, Guwahati in Claim Application No. 975/97. What happened in this case was that an application was filed u/s 16 of the Railway Claims Tribunal Act, 1987 by one Smti. Madhumita Sharpa, widow of the deceased praying for grant compensation on account of the death of her husband as a result of the Railway accident. There is no denial of the fact that the person died as a result of Railway accident while he was on official duty and it is also beyond doubt that when he met with the accident he was on official duty as it is evident from the report (Annexure-1) submitted by the Divisional Railway Manager, N.F. Railway, Lumding. The Tribunal rejected the claim on the ground that the accident which caused the death of the Appellant's husband is not covered by the definition of "untowards incident" as defined u/s 123(c) of the Railway Act, 1987. This matter came up for consideration before the Division Bench of this Court reported in Minu Mai Devi Vs. Union of India (UOI), wherein in paragraphs-9,10 and 11 it was pointed out as follows:

9. A perusal of the definition of the word "passenger" as given u/s 2(29) of the Railway Act as well as given in explanation u/s 124A clearly indicates that so as to be entitled for compensation, the requirement is that the person who met with

an accident was authorisedly present at the platform or the train when the accident took place. The fact which is not in dispute is that the husband of the Appellant was detailed for performance of his official duty in respect whereof he was authorised to be there at the Hojai Railway Station. That being the position, in our view, presence of such a person at the Railway Station would fall in the same category as passenger.

10. In this connection, explanation to Section 124A may once again be referred to, which makes it clear that the meaning of the word "passenger" is only for the purposes of Section 124A of the Railway Act. Under explanation to Section 124A the definition of the word "passenger" has been made inconclusive; whereas u/s 2(29) it is confined to "meaning" of word passenger. The change is from "means" to "includes". It is thus clear that for the purposes of Section 124A meaning of the word "passenger" becomes inclusive and it may include persons even other than those who are indicated in the provision. The list of persons cannot be treated to be exhaustive. Otherwise there was no difficulty in providing in the explanation to Section 124A that for the purposes of the said provision the word "passenger" would also "mean" the persons mentioned under Clause (i) and (ii) to the explanation. In that event, it would have strictly applied to those categories of persons to be treated as passenger for the purposes of Section 124A. But that has not been done, instead the word "means" used in Sub-section (29) to Section 2, the word "includes" has been used in the explanation to Section 124A of the Act. This makes it clear that category of persons mentioned in Clause (i) and (ii) of the Explanation do not make the list exhaustive viz. persons (sic) than those mentioned in Clauses (i) and (ii) of the explanation or those mentioned u/s 2(29) of the Act may also be included in the definition of passenger for the purpose of Section 124A.

11. Needless to emphasise that such provision as contained in explanation to Section 124A has to be liberally construed. By Amendment Act 28 of 1994 Chapter XIII has been inserted into the Railway Act, 1989. This Chapter relates to liability of Railway administration to pay compensation to injury or death of passenger due to accident. It is a self contained Chapter dealing with the compensation payable to the passengers in case of accident. It is in the nature of social welfare legislation so as to provide relief to the victims or the dependants of the victim of railway accident/untowards incidents. For interpretation of provision of such a legislation, a liberal construction of the provision has to be made. Certain decisions on the point may be referred to as reported in (1999) SCC 90 . Helen C. Rebello (Mrs) and Anr. v. Maharashtra State Transport Corporation and Anr. While interpreting the provisions of the Motor Vehicles Act the legislative intent and beneficial character of the legislation was taken into account in computing the compensation. Hindustan Steel Works Construction Ltd. Vs. State of Kerala and others, The interpretation of Welfare Fund Act was made keeping in view the fact that it was essentially to protect interest and welfare of the labourers and Spring Meadows Hospital and Another Vs. Harjol Ahluwalia through K.S. Ahluwalia and Another, While considering provisions of Consumers

Protection Act, 1986 it was held that being a beneficial legislation the provision should receive a liberal construction. While considering the definition of the word "consumer" and in fact that it was inclusive definition "parent of the child" who suffered by wrong treatment, were also held to be consumer within the purview of the definition of the word "consumer".

2. Therefore, a person who met with an accident while on official duty shall also be entitled to such compensation. In that view of the matter the judgment of the Railway Claims Tribunal shall stand quashed and the matter shall now go back to the Tribunal to decide the quantum of compensation and entitlement of compensation shall not be reopened. The Tribunal shall dispose of the matter within a period of three months. The parties shall appear before the Tribunal on 29th of June, 2001 to receive further instruction.