

(2011) 04 DEL CK 0298
In the Delhi High Court
Case No : FAO No. 106 of 2011

Sh. Sajjan Singh and Another	Vs	APPELLANT
Union of India (UOI)		RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23

Citation : (2011) 04 DEL CK 0298

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Deepender Hooda, for the Appellant; Tejbir Dua, for the Respondent

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—The challenge by means of this first appeal u/s 23 of the Railway Claims Tribunal Act 1987 is to the impugned judgment dated 24.11.2010 which has dismissed the claim petition of the dependents of the deceased. In order to understand the peculiar reasoning of the Railway Claims Tribunal for dismissing the claim, I need only reproduce the relevant findings of a few lines as under:

By the applicants' own specific admission in the claim application, Shri Deepak Kumar fell from the train at Mangolpuri railway station. The applicants have also admitted that Shri Deepak Kumar had a ticket, which was valid from Nangloi to Bahadurgarh, and it is relevant to mention that Mangolpuri railway station does not fall within the Nangloi-Bahadurgarh section, but is a station, which falls between Nangloi and Delhi railway stations. It is, therefore, apparent that at the time of the incident, Shri Deepak Kumar was not a bonafide passenger. Based on the evidence on record, all the issues are decided in favour of the Respondent and against the applicants.

2. The only reason therefore for dismissal of the claim was that the deceased Deepak Kumar though had a valid railway ticket for journey from Nangloi to

Bahadurgarh, however he died at Mangolpuri Station which does not fall on Nangloi-Bahadurgarh Section. The Mangolpuri station falls between the Nangloi and Delhi Railway Station.

3. In my opinion, this is a very curious, unfair, unjustified and inappropriate finding because once there is a validly purchased rail ticket, the deceased will be a bonafide passenger unless restrictions are pleaded and proved by the Railways that only the direct route can be taken for travel and passenger cannot use alternative more convenient route for the same day. It thus cannot be said that the deceased did not use the proper travel route and was therefore equivalent to a ticketless traveler and hence not a bonafide passenger. This is so because the travel is basically intra region travel in the region of the National Capital Territory of Delhi which is these days equivalent of an intra city travel.

4. The Supreme Court in the case of Union of India (UOI) Vs. Prabhakaran Vijaya Kumar and Others, and Jameela and Others Vs. Union of India (UOI), has held that the liability of the Railways u/s 123(c) and Section 124A is an absolute liability and it has not to be proved that there was any negligence involved of the Railways. All that has to be proved is an untoward incident. In the present case, it is not disputed that there was an untoward incident because the deceased Deepak Kumar fell from the train at Mangolpuri Railway station. The present case is therefore fully covered by the decisions in the cases of Prabhakaran and Jameela (supra).

5. In accordance with the Railway Claims Tribunal Act and Railways Accident and untoward incidents (Compensation) Rules, 1990, in case of death from an untoward incident, the compensation which is payable would be a sum of Rs. 4,00,000/-. In this case therefore the dependents of the deceased, the Appellant herein, will be entitled to compensation of Rs. 4,00,000/-. The Appellant will also be entitled to interest at the rate of 9% per annum from the date of filing of the petition till the date of payment by the Respondent to the Appellant in terms of the decision of the Supreme Court in the case of Tahazhathe Purayil Sarabi and Others Vs. Union of India (UOI) and Another, wherein the Supreme Court has clarified the position that the Railway Claims Tribunal and the Courts are entitled to grant interest from the date of the accident or the date of filing of the petition, as per the facts and circumstances of each case.

6. Accordingly, this appeal is allowed. The Respondent is directed to pay compensation of Rs. 4,00,000/- to the Appellants, dependents of the deceased Deepak Kumar along with interest at the rate of 9% per annum simple from the date of filing of the claim petition before the Railway Claims Tribunal. Appeal is accordingly disposed of. No costs. Trial Court record be sent back.