
(2012) 02 AHC CK 0047
In the Allahabad High Court
Case No : F.A.F.O. No. 292 of 2009

Union of India

APPELLANT

Vs

Balak Ram Joshi

RESPONDENT

Date of Decision : 23-02-2012

Acts Referred:

Constitution of India, 1950 — Article 21
Railway Claims Tribunal Act, 1987 — Section 23

Citation : (2013) ACJ 727 : (2012) 3 TAC 436

Hon'ble Judges : Satish Chandra, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : Brijesh Kumar Shukla, for the Appellant; Jaspreet Singh and Shri P.K. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sharma and Dr. Satish Chandra, JJ.—The present appeal u/s 23 of Railway Claims Tribunal Act, 1987 has been filed against the judgment and order dated 8th December, 2008 passed by the Railway Claims Tribunal, Lucknow in O.A. No. 0400084 (Balak Ram Joshi and others v. Union of India). The brief facts of the case are that on 20th/21st January, 2004, the deceased Smt. Katori Devi was travelling in Delhi-Raxaul Express. When the train started from Maigalganj Station, due to jerk, the deceased fallen down and died on the spot. The claimants have filed a claim petition before the Tribunal, who awarded a compensation of Rs. 4,00,000/- alongwith @ 6% per annum. Not being satisfied, the appellant-railways have filed the present appeal.

2. With this background, Sri Brijesh Kumar Shukla, learned Counsel for the appellant submits that the deceased was not a bona fide passenger. In fact, she was not travelling in the said train so she could not fallen down when the train started from Maigalganj. No ticket or belongings were recovered from the deceased. The deceased was not travelling from Aigawan to Maigalganj. He further submits that on the date of accident, only six tickets were sold and none

of the ticket was for the express train. So, it is a concocted story that the deceased was travelling in Delhi- Raxaul Express Train. Lastly, he made a prayer that the impugned order passed by the Tribunal may kindly be set aside.

3. On the other hand, Sri Jaspreet Singh, learned Counsel for the respondents, justified the impugned order.

4. We have heard learned Counsel for the parties and gone through the material available on record.

5. From the record, it appears that a co-passenger Sri Raj Kumar Kashyap, who was known to the deceased stated on oath that the ticket has been purchased by the deceased and they were travelling together. When train starts from Maigaljanj, due to jerk, the deceased has fallen down from the train. Though the ticket or belongings were not recovered, but it is proved that the deceased has died in a railway accident.

6. It is settled law that right to life is a fundamental right, guaranteed under Article 21 of the Constitution of India, once Railway issues the tickets to board the train, then it is the duty of the Railway to take necessary measures for safety and security of the passengers. It is for the Railway to take steps or provide appropriate measures or infrastructures, so that whenever the train moves from the platform, the doors are closed. Whether it is reserved or unreserved compartment, the life of citizen cannot be put to risk. Lives of people travelling in reserved compartment cannot be treated superior to the people travelling in unreserved compartment. So far as security measures are concerned, that should be taken by the Railway uniformly for the reserved and unreserved compartments. Necessary steps must be taken by the Railway through mechanical device or by appointment of appropriate staff, so that whenever, train moves from the platform, the doors must be closed and on arrival of train on platform, it may be opened. The Railway or the Government cannot shirk from its responsibility with regard to the safety and security of the passengers travelling by train or using the platforms.

7. Needless to mention that legal maxim *Salus Populi Est Supreme Lex* means regard for the public welfare is the highest law.

8. Sections 57, 58 and 59 have been provided in the Act to secure safety measures and welfare of the people at large. The burden lies on the Railway to give effect the statutory provisions in its letter and spirit.

9. We are also reiterating that it is the duty of the Railway to make necessary arrangement to regulate the entry of passenger in the compartment as well as platform. The Railway has full mechanism and manpower to caught ticket less travelers. Even the entry to the platform is restricted by platform ticket. Thus, it is presumed that every person travelling in the train or entering the platform is holding a valid ticket unless proved otherwise. In the instant case, Railway has failed to prove that the deceased was a ticket less passenger.

10. Needless to mention that the life of the people travelling in second class or upper class are equally precious for the respective family and nation. It does not make any difference as to whether the passengers are travelling in the second class or upper class. The burden lies on the railway to make necessary arrangements by mechanical/electronic/manual device so that at the time of departure of the train from platform, the doors are shut and on arrival at the station, it may be open. Further, it is the duty of the railway to make necessary arrangements to regulate the safe entry of the passengers in the compartments. We expect that railway shall look into this aspect of the matter for safety and security of the passengers by taking necessary steps at the earliest.

11. In the light of the above discussion and by considering the peculiar facts and circumstances of the case, we do not find any illegality or perversity in the impugned order passed by the Tribunal. The impugned order of the Tribunal is hereby sustained in toto alongwith the reasons mentioned therein. The appeal filed by the Railway department is devoid of merit. It is accordingly dismissed.