

(1991) 08 DEL CK 0041

In the Delhi High Court

Case No : Regular First Appeal No. 25 of 1975

Union of India

APPELLANT

Vs

Sardarni Rajinder Kaur

RESPONDENT

Date of Decision : 22-08-1991

Acts Referred:

Citation : (1992) RLR 30

Hon'ble Judges : Sat Pal, J;G.C. Mittal, J

Bench : Division Bench

Advocate : H.S. Dhir and R.K. Makhija, for the Appellant;

Judgement

Mittal, C.J.

(1) Gurprit Singh was a final year student of Punjab Engineering College, Chandigarh in 1967. The College arranged a trip for the students from Chandigarh to Asanol, Howrah, Tatanagar, Bombay and then back to Chandigarh. For this purpose bogie Ct 3816 was booked from 15.12.1967 to 3.1.1968 through the Chief Operating Superintendent, N. Rly. New Delhi. The bogie was attached with train 308 Down and reached Howrah on the night of 21.12.1967. At Howrah, the bogie was kept far away from the railway platform. On the morning of 22.12.67 Gurprit Singh came out of the bogie to go to the Howrah platform to take his breakfast. While he was crossing the railway lines to reach the platform, he was run over by an electric train and died in a Howrah hospital.

(2) His mother and sister and brother, who were minors, filed a suit for award of Rs. 5,00,000/- as damages as indigent person. A learned Single Judge of the Court tried the suit and by a well considered judgment and decree dt. 2.4.1975 decreed the suit and awarded Rs. 36,000/- as damages with proportionate costs. This is the first appeal by the U.O.I. through the General Manager, N. Rly.

(3) On a consideration of the material brought on record, we are of the view that the appeal is without any merit. The case was such that the U.O.I, would have

been well advised in not filing the appeal. It is lucky that the plaintiffs have not filed cross-objections, otherwise, it may have been possible that the cross objections filed on behalf of the plaintiff may have been allowed and the compensation may have been increased. Since, there are no cross objections, the question of increasing the compensation does not arise,

(4) On an appraisal of the evidence, we are of the view that negligence of the railway authorities on the Howrah Rly. Stn. is clearly established in not keeping the bogie on such a track where the students had not to cross the railway lines. It is not the case of the railway authorities that there was no siding accommodation on the Howrah Rly. Stn.

(5) Mr, Dhir argued the case with ability on behalf of the railway administration and brought to our notice paragraphs 311 and 312 relating to reservation of berths etc. It was argued that it was the duty of the students to be careful and even if the bogie was not placed at the siding accommodation, the railway authorities cannot be held guilty of negligence. The relevant paras relied upon by the counsel read.

"312.Detention : (1) When a whole carriage has been reserved it may be detached or reattached whenever the occupants desire at any station at which there is siding accommodation. Detention charges..."

(6) A reading of para 312 shows that when ever the siding accommodation is available, then according to the desire of the occupants, the bogie has to be detached on the available siding. In this case evidence has come that a request was made for placing the bogie on a safer place and this was not done. We are, Therefore, of the considered view that paragraph 312 instead of helping the railway authorities helps the plaintiffs.

(7) We do not consider it just and proper on the peculiar facts of this case to mention about the statements of the witnesses and other material brought on record in detail and short judgment would suffice.

(8) For the reasons recorded above, the appeal is dismissed with costs. In exercise of our discretion, we award interest on the decretal amount at the rate of 12 per cent per annum from the date of filing of the suit till payment.