
(2010) 02 AHC CK 0044
In the Allahabad High Court
Case No : F.A.F.O. No. 364 of 2002

Union of India (UOI)

APPELLANT

Vs

Jogeshwar Prasad and Another

RESPONDENT

Date of Decision : 02-02-2010

Acts Referred:

Constitution of India, 1950 — Article 21
Railway Claims Tribunal Act, 1987 — Section 23
Railways Act, 1989 — Section 154, 156

Citation : (2011) ACJ 1372 : AIR 2012 All 12 : (2010) 4 AWC 3700

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma and Satish Chandra, JJ.—This appeal is filed u/s 23 of the Railway Claims Tribunal Act, 1997 against the Judgment and award dated 15.4.2002, passed in Claim Case No. O.A. 9800147 by the Railway Claims Tribunal, Lucknow awarding the compensation to the tune of Rs. 4,00,000 alongwith interest @ 9%.

2. The brief facts of the case are that one Sri Ranjeet Kumar aged about 18 years of age was travelling by 377-Up Triveni Express from Rai Bareilly to Lucknow on 17.9.1996. Near the signal of Harchandpur Railway Station, the victim fallen down and died on the spot. He was holding a valid ticket No. 51865 which was on record. So, he was a bona fide passenger. For the negligence, the Tribunal has awarded statutory compensation of Rs. 4.0 lacs against the appellant-railway. Not being satisfied, the appellant-railway has filed the present appeal.

3. None appeared on behalf of the opposite party. However, Sri Anil Srivastava, learned Counsel for the appellant-railway submits that the deceased has fallen down due to his own negligence. He was travelling on the foot board of the train which is prohibited in view of the Section 156 of the Railways Act, 1989 read with Section 154. He also submits that in Railways, travelling on roof, foot board and

engine is prohibited. Section 124A of the Act provided the exception for the self injury and Criminal Act. However, on the specific quarry from the Bench, he accepted that the deceased was the bona fide passenger of the train No. 377-Up, Triveni Express. Lastly, he submits that since the deceased alone was responsible for the aforesaid negligence, as such, the claimants are not entitled to any compensation.

4. By considering the arguments and the material available on record, it appears that the deceased was the bona fide passenger. No material was brought on record to prove that this is the case of death or suicide or death resulting from any criminal Act. The deceased was returning from a Rally organized the Bahujan Samajwadi Party. So, he was having a political affiliation and aspiration. There was no question for committing suicide. The accident occurred when suddenly the driver of the train applied the break near the signal of Harchandpur Railway Station. The deceased who was travelling on the foot board of the train fallen down on the track and died on the spot.

5. This Court in the case of Smt. Aktari v. Union of India F.A.F.O. No. 100 of 2003 observed that there is no restriction with regard to sale of ticket for unreserved compartment. Railway does not provide any mechanism for the automatic closer of the doors of the compartment when a train leaves the platform like Metro train. In the absence of appropriate safeguard unreserved compartments are over crowded compelling the people to stand in front of the door of the compartment.

6. It is settled law that right to life is fundamental right, guaranteed under Article 21 of the Constitution of India, once the 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 platform. Needless to mention that as per legal maxim- *Salus populi est suprema lex* means "regard for the public welfare is the highest law"

7. Needless to mention that the lives 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 the even to 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. 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.

8. 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.

9. In the light of the above discussion and by considering the facts and circumstances of the case, we do not find any illegality or perversity in the order of the Tribunal. The impugned order of the Tribunal is hereby sustained alongwith the reasons mentioned therein.

10. The appeal filed by the Railway department is devoid of merit. It is accordingly dismissed.