
(2004) 08 AHC CK 0075
In the Allahabad High Court

Union of India (UOI)

APPELLANT

Vs

Kitabullah and Another

RESPONDENT

Date of Decision : 20-08-2004

Acts Referred:

Citation : (2005) 2 ACC 236

Hon'ble Judges : U.K. Dhaon, J;M.A. Khan, J

Bench : Division Bench

Judgement

U.K. Dhaon, J.—This is an appeal arising out of the judgment and award dated 26th May, 1999 passed by the Railway Claims Tribunal, Lucknow Bench, Lucknow, thereby awarding a sum of Rs, 2,00,000/- by way of compensation to the heirs of deceased Farhad.

2. It appears that a claim petition was filed with the allegations that on 12th December, 1996 deceased Farhad was travelling in second class from Basati to Bombay VT and when the train reached near Orai, due to an accidental fall, Farhad fell down and suffered injuries and when he was taken to hospital he died due to those injuries.

3. From the side of the Railways the factum of death due to injuries is not denied, but has been pleaded that the deceased was not a bona fide passenger. The factum of accident and liability of the railways has also been denied.

4. On the pleadings of the parties, the learned Court below framed as many as four issues in the case and after recording evidence and on appraisal thereof came to the conclusion that it is a case of "untoward incident" and the railway administration is liable to pay compensation. Aggrieved by the said judgment and award, the present appeal has been filed.

5. We have heard the learned Counsel for the parties at length and gone through the record.

6. Irfan, real brother of deceased Farhad, was allegedly traveling in the train

from Basti to Bombay VT on 12th December, 1996. His evidence conclusively proves that deceased Farhad was travelling in the train from Basti to Bombay VT. His evidence further shows that the deceased met with an accident and he fell down suffered injuries and due to those injuries he died at Orai.

7. From the side of the Railway administration just negative evidence has been produced and liability of the railway administration has been denied just on flimsy grounds.

8. The learned Tribunal discussed at length the entire evidence and found that it is established that on 12th December, 1996 Farhad was subject matter of post-mortem and he died of accident, it is also established from the evidence that it is due to sudden jerk in the train that Farhad fell down from the train and died. There is reliable evidence on record to prove that it was a case of "untoward incident" and the railway administration is liable to pay compensation for that. We find no illegality or impropriety in the findings recorded by the learned Tribunal.

9. In the result the appeal fails and is dismissed.

10. The amount already in deposit before this Court as well as before the Tribunal shall be allowed to be withdrawn by the claimants/respondents. The balance amount, if any, shall be deposited by the appellant within a period of six weeks from today. On deposit so being made, the claimants/respondents shall be allowed to withdraw the same also without furnishing any security.