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29-08-2006

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Present: Mr. Kumar Rajesh Singh, Advocate for appellant
Ms. Pratima Nain Chauhan, Advocate for respondent

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FAO No.334/2002

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Instant appeal arises out of an order dated 10th April, 2002 of the Railway Claims Tribunal (Principal Bench), Delhi awarding a sum of Rs.4 lacs as compensation under Section 124 A of the Railways Act alongwith interest @ 9% per annum from 7th October, 1999 till realisation.

The claim application discloses that one Malkhan Singh was, on 27th April, 1998 travelling by train No.4 RD whereupon he accidentally fell down resulting into grievous injuries on his person. He eventually succumbed to injuries at Safdarjung Hospital, New Delhi.

The appellant in their reply simply took the stand that the applicant should be called upon to prove that deceased was a bonafide passenger.

The Tribunal framed the following issues :


1. Whether Malkhan was a bonafide passenger of the train in question ?

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2. Whether Malhan died as a result of an untoward incident as defined in Section 123 (c) of the Railways Act ?
 3. Whether applicant is the sole dependent of Malkhan deceased ?
 4. To what amount, if any, the applicant is entitled to as compensation ?
 5. Relief ?

On the basis of evidence adduced, all the issues were decided in favour of the respondent and he was held entitled to compensation amount as aforesaid.

The fact that the accident in question did take place on account of fall of the deceased Malkhan Singh from the train is not being disputed on behalf of the appellant. The only argument being raised is that since no ticket was recovered from his possession, on a search by the guard of the train, the deceased could not be held to have been a bonafide passenger and thus no compensation could have been awarded to the respondent. Same argument was raised before the Tribunal also. The Tribunal relied upon a decision of Madhya Pradesh High Court in Raj Kumari Vs. UOI; 1993 ACJ 846 wherein it was held that the burden to prove that the deceased was a bonafide passenger did not lie on the dependents of the victim. This

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apart, the Tribunal took into account the statement on affidavit of one Ranjit Singh affirming that he had purchased a railway ticket from Patli to Palam and handed over the same to the deceased Malkhan Singh and noticing that on his cross examination nothing could be brought out to discredit his testimony, proceeded to record a finding that the deceased Malkhan Singh was a bonafide passenger of the train No.4 RD and accordingly decided the issue in affirmative in favour of the applicant. The finding of the Tribunal in this regard thus cannot be said to be based on no evidence and since the view taken by the Tribunal could be a possible one, there appears no reason to interfere with its finding in that regard. The factum of deceased Malkhan Singh having fallen down from the train and receiving grievous injuries resulting into his death being not in dispute and there being no evidence on behalf of the respondent that such fall could be attributable to the deceased on account of a suicidal act on his part or due to any criminal act, being an untoward incident the Tribunal was justified in deciding the issue No.2 in favour of the applicant and eventually adjudging the respondent entitled to the compensation amount. Finding no merit the appeal is dismissed.

In view of the dismissal of the appeal, balance 50%

alongwith interest, if any, accrued thereon shall be released to
the respondent.

August 29, 2006

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(B.N.CHATURVEDI)
JUDGE

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