

# RAJASTHAN HIGH COURT

Inderjit Singh

Vs.

Union of India

C.M.A. No. 2002 of 2004

(Mr. R.S. Chauhan)

14.02.2007

## JUDGMENT

**R.S. Chauhan, J.**

1. Having lost their son in an "untoward incident" in a train, having lost their claim petition before the Railway Claims Tribunal, Jaipur Bench, the appellants are challenging the judgment dated 6-8-2004 before this Court.

2. In a nutshell, the facts of the case are that on 3/4-8-99 the appellants' son, Surendra Singh was travelling in the Awadh Express with a valid II class ticket from Lucknow to Kota. According to the witnesses, the compartment was over-crowded. Near the Ranthambore Railway Station, the train forcefully jerked. Consequently, their son, who was standing near the gate, was hit by the Home Signal. Their son was travelling with his other brother, Pawan Singh and with his cousin brother, Saghan Singh. As a result of hitting the Home Signal, their son sustained grievous head injury. His brother and cousin brother caught hold of him and pulled him back into the compartment. They did not let him fall off the train. Although the Railway Police Staff at the train station rushed their son to the hospital, but subsequently he succumbed to his injuries. The post-mortem was conducted at the hospital; the Railway Police also lodged a FIR. Since the appellant had lost their son, they filed a claim petition against the respondents before the learned Tribunal for Rupees 6,00,000/-.

3. The learned Tribunal framed five issues. In order to support their case, the appellants filed three affidavits. Mr. Pawan Singh was also cross-examined by the respondents. Although the respondents have denied the averments made in the claim petition, they did not lead any evidence to buttress their case. After going through the oral and documentary evidence, the learned Tribunal dismissed the claim petition

ostensibly on the ground that the case did not fit into the definition of "untoward incident" as defined in Section 123(c) of the Railways Act, 1989 (henceforth to be referred to as "the Act", for short). According to the learned Tribunal, since the deceased was pulled back by his brothers and was not allowed to "fall down", the case is not covered under the definition of "untoward incident" as defined in Section 123 of the Act.

4. Mr. Bipin Gupta, the learned Counsel for the appellants, has argued that Sections 123 and 124A of the Act are beneficial piece of legislation. Therefore, a pedantic or a narrow interpretation of the definition should not be adhered to. In fact, the definition does not warrant a literal interpretation of the words, "falling of any passenger from a train carrying passengers." Such an interpretation would defeat the very purpose of creating the liability of the Railways. Hence, the learned Tribunal has misinterpreted the said definition. It has, thus, illegally denied the compensation to the appellants. In order to support his contentions, the learned Counsel has relied upon the cases of *N. Buchilingam and Ors. v. Union of India*<sup>1</sup> *Rathi Menon v. Union of India*,<sup>2</sup>

5. On the other hand, Mr. Alok Garg, the learned Counsel for the respondents, has argued that the words "accidental falling of any passenger from a train carrying passengers" contained in Section 123 of the Act should be given a narrow meaning as has been done by the learned Tribunal. He has, thus, supported the impugned judgment.

6. We have heard both the counsel, have examined the impugned judgment and have considered the case law cited at the Bar.

7. This case calls for interpretation of Section 123 of the Act, which is as under:

123. Definitions - In this Chapter, unless the context otherwise requires

(a) "Accident" means an accident of the nature described in Section 124;

(b) "Dependent" means any of the following relative of a deceased passenger, namely;

(i) The wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child or a pre-deceased son, if dependent wholly or partly on the deceased passenger;

(iii) a minor child of a pre-deceased daughter, if wholly dependent on the deceased passenger;

(iv) The paternal grand parent wholly dependent on the deceased passenger

(c) "Untoward incident" means

(1) (i) the commission of a terrorist act within the meaning of Sub-section (1) of Section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987; or

(ii) The making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.

8. Section 124A of the Act is as under:

124-A. Compensation on account of untoward incidents - When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, negligent or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependent of a passenger who has killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to

(a) Suicide or attempted suicide by him;

(b) Self-inflicted injury;

(c) His own criminal act;

(d) Any act committed by him in a state of intoxication or insanity;

(e) Any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

9. Both these provisions are under Chapter XIII of the Act, which deals with "Liability of Railway Administration for Death and Injury to Passengers due to Accidents." A bare perusal of these two provisions reveals that Section 123(c) defines the words "untoward incident". And Section 123 claims that "the accidental falling of any passenger from a train carrying passengers" would fall within the definition of "untoward incident". Section 124A of the Act deals with compensation on account of untoward incident. It places the responsibility on the Railway Administration for

compensating the injured passenger or the dependent(s) of a deceased passenger. However, in case the injury or death of a passenger has occurred due to suicide or attempted suicide, or by self-inflicted injury, or by his own criminal act, or by any act committed by him in a state of intoxication or insanity, or by any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident, then the railway administration is not liable to pay the compensation. Thus, the proviso of Section 124A carves out circumstances where the railway administration is not liable for payment of compensation.

10. Sections 123 and 124A were enacted as beneficial piece of legislation. Since the Railways is the largest mode of transportation in India, since the Railways is prone, at times, to accidents or untoward incident, it was necessary to define these words. Under the law of torts, it was also essential to create a mechanism for grant of compensation to the injured passengers or to the dependent(s) of passenger(s) killed in train accidents or in untoward incident. While interpreting these provisions, one would have to keep element of beneficial legislation in mind.

11. While dealing with the rules of interpreting beneficial piece of legislation, as far back as 1977, in the case of *State of Madhya Pradesh v. Galla Tilhan Vyapari Sangh*,<sup>3</sup> the Hon'ble Supreme Court had held, "it is a settled principle of law that a statutory provision which is made in public interest and which is essentially a piece of beneficial legislation, the same is required to be liberally construed so as to advance very object of the provision of law and to fulfill the aim sought to be advanced by such provision". Similarly, in the case of *New India Sugar Mills Ltd. v. Commissioner of Sales Tax, Bihar*,<sup>4</sup> the Apex Court held, "it is a recognized rule of interpretation of statutes, the expressions used therein should ordinarily be understood in a sense in which they best harmonize with the object of the statute and which effectuate the object of the legislature. If an expression is susceptible of a narrow or technical meaning, as well as a popular meaning, the Court would be justified in assuming that the legislature used the expression in the sense which would carry out its object and reject that which renders the exercise of its powers invalid." The word "falling" has about twenty-nine meanings in the English language. According to the Shorter Oxford English Dictionary (5th Edition), the word "fall" means "drop or come down from a height or relative height esp. by the force of gravity." It, thus, bears an element of instability. Keeping in mind the purposive rule of interpretation in mind, the words "the accidental falling of any passenger from a train carrying passengers", a too literal interpretation cannot and should not be given to these words. Otherwise, the very

purpose of Sections 123 and 124A would be defeated. An interpretation that would dilute the purpose of the law or provision should be avoided. Thus, the words "accidental falling...from a train..." would have to be interpreted as meaning the causing of instability in a passenger due to which he loses his balance and falls, resultantly causing injury to himself. Too pedantic, too technical, too literal an interpretation would rob the provision of its beneficial nature. Thus, such an interpretation should be eschewed. Of course, the defense available to the Railway Administration under the proviso to Section 124A would be available to the Administration.

12. In the present case, the deceased sustained injury due to a sudden jerk in the train. He lost his balance - became instable - due to which he collided with the Home Signal. He sustained injury on the head and subsequently succumbed to the said injury. The occurrence was not pre-planned; it was accidental. The accident occurred due to the negligence of the driver - the train jerked. Hence, prima facie the case is covered under the definition of "untoward incident". Under Section 124A the Railway Administration should be liable for payment of compensation to the claimants.

13. In the result we allow this appeal and set aside the judgment dated 6-8-2004 passed by the learned Tribunal and remand the case back to the learned for its decision. The parties are directed to appear before the learned Tribunal on March 12 2007. Since the case is an old one, the learned Tribunal is directed to decide the case within a period of six months from the first date of appearance of the parties before it. There shall be no order as to costs.

Cases Referred.

1. 2005 (2) TAC 272
2. (2001) 3 SCC 714: AIR 2001 SC 1333
3. (1977) 1 SCC 657: AIR 1977 SC 2208
4. AIR 1963 SC 1207