

Sunita Vs. Union of India

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Court : Delhi

Decided On : May-01-2014

Judge : Valmiki J. Mehta

Appellant : Sunita

Respondent : Union of India

Advocate for Def. : Mr. Rajan Sabharwal

Advocate for Pet/Ap. : Mr. Yogesh Swaroop

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + % SUNITA FAO No.402/2012 Through:

1. t May, 2014Appellant Mr. Yogesh Swaroop, Advocate. VERSUS UNION OF INDIA Through: Respondents Mr. Rajan Sabharwal, Advocate. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. Yes VALMIKI J.

MEHTA, J (ORAL) 1. This first appeal is filed under Section 23 of the Railway Claims Tribunal Act, 1987 impugning the judgment of the Tribunal dated 31.5.2012, which has dismissed the claim petition filed by the claimant/appellant. By the claim petition statutory compensation was sought on account of the death of appellants husband Ram Prakash. Ram Prakash was shot at the Sadar Bazar

Railway Station by some assailants in order to snatch the bag he was carrying. The deceased Ram Prakash was travelling on a valid MST bearing No.O-0412823 by Ferozpur Janta Express Ex.Jind and he had got down at the Sadar Bazar Railway Station where the untoward incident as per Section 123(c) and Section 124-A of the Railways Act, 1989 occurred.

2. The respondent though had filed a written statement to contest the claim of the appellant/claimant, the record of the Tribunal however shows that no evidence has been led on behalf of the respondent in support of its case. Appellant/claimant led evidence and proved on record the monthly season ticket which has only wrongly been marked by the Tribunal but it stands proved as per the evidence filed by the appellant. The FIR pertaining to the incident has been filed and proved on record as Ex.AW1/4.

3. The only ground on which the Railway Claims Tribunal dismissed the claim petition is because as per the interpretation of Section 123 (c) (1) of the Railways Act, 1989 by the Tribunal, this provision does not come into application unless there occurs death of several persons i.e this provision does not come into play if there is death of only one person in the robbery incident.

4. In order to appreciate the falsity of the interpretation of provision of Section 123 (c) of the Railways Act, 1989 by the Tribunal, the said provision is reproduced below:

S.123(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 (28 of 1987) (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 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.

5. Even a cursory reading of this provision shows that nowhere in this provision it is provided that an untoward incident happens as a result of a terrorist act or a

violent act or the commission of robbery/dacoity/rioting only if there occurs deaths of more than one person. I have failed to understand as to from where the Tribunal has included in the aforesaid provision of Section 123(c)(1) the language that more than one person must die without which the incident will not be an untoward incident. In the opinion of this Court if the interpretation given by the Tribunal is accepted then it would amount to a perverse interpretation of the aforesaid provision and which would defeat the very intention of the legislature in providing for compensation for an untoward incident.

6. I may note that though one of the contentions urged on behalf of the respondent was that it was possible that the deceased had not got down at the Sadar Bazar Railway Station and it could be that he was chased by the assailants into the Sadar Bazar Railway Station, but this argument is wholly misconceived because the FIR recorded of the incident is by a co-passenger of the deceased one Sh. Randhir Singh and the statement of Sh. Randhir Singh shows that Ram Prakash deceased had got into the train at Jind and had got down at the Sadar Bazar Railway Station and whereafter there occurred the untoward incident. I may note that there was another document being the Brief Facts pertaining to the FIR, and since this is certified copy I take note of the same, and which shows that the police had come to the spot pursuant to a PCR call i.e call made to the number 100 by a concerned citizen. Also as stated above no evidence has been led by the respondent. Therefore, I reject the contention of the respondent that the deceased Ram Prakash had not travelled from Ex-jind to Sadar Bazar Railway Station and hold that the deceased was bonafide passenger who died in an untoward incident at the Sadar Bazar Railway Station.

7. Accordingly the appeal is allowed. The impugned judgment of the Tribunal is set aside. Appellant will be entitled to statutory compensation of Rs. 4 lacs. Appellant will also be entitled to interest at 7 % per annum simple from the date of filing of the petition before the Tribunal till the date of payment. Parties are left to bear their own costs.

8. A copy of this judgment, for necessary information be sent to the Chairman of the Railway Claims Tribunal at Delhi. MAY01 2014 nk FAO4022012

