
(2007) 04 AHC CK 0294

Allahabad High Court

Case No: F.A.F.O. No. 2192 of 2002

Union of India (UOI) and Another

APPELLANT

Vs

Deomani Devi

RESPONDENT

Date of Decision: April 23, 2007

Acts Referred:

- Railways Act, 1989 - Section 124A

Citation: (2007) 6 AWC 6029

Hon'ble Judges: V.C. Misra, J; Amitava Lala, J

Bench: Division Bench

Advocate: Sushil Kumar Srivastava, for the Appellant; Balwant Singh, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Amitava Lala, J.

Although the appeal has been placed under the heading "for orders" but on the joint prayer of the learned Counsel for the parties it has been taken up on merit by treating the same as "for hearing". We have gone through the judgment delivered by Railway Claims Tribunal dated 13th August 2002 and perused the record. We find that the sole cause under the appeal is that u/s 124A of the Railway Act, 1989 (hereinafter in short called as "Act") no compensation can be awarded to the claimants in case the accident takes place in the manner which are exceptions u/s 124A of the Act, as follows:

(f) Suicide or attempted suicide by him ;

(g) Self-inflicted injury ;

(h) His own criminal act ;

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

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

2. Learned Counsel appearing for the Respondent cited a judgment in [Union of India \(UOI\) and Others Vs. Sunil Kumar Ghosh](#), However, such judgment is factually distinguishable herein for the reason that there the cause was that the passenger fell down from the train while the bogie, in which he was travelling, was being shunted. The Supreme Court held that it cannot be said to be an accident occurred from the train or part of the train to attract the liability. Here no such fact is available. The person concerned was travelling in the train while he was going to his residence after attending the case in Allahabad High Court. Moreover, the issue was decided u/s 124A of the Act by saying as follows:

No specific case has been set up even in the written statement and it has also not been shown that the present case is covered by any of the exceptions contained in Section 124A of the Railways Act. There is no whisper or evidence that the deceased committed suicide or that died of his own criminal act or he was in the stage of intoxication. The post mortem report also confirms the case set up by the applicant and it has been clearly stated that the deceased received injuries by falling from 2 V.P.L.-Dn. passenger train.

3. Therefore, we are of the view that when the deceased fell down from the train and when the present case is fully covered by the provisions of Section 124A of the Act, the railway authority cannot avoid the liability. Thus, taking into totality of the case, we do not find any merit in the appeal. Hence, it is dismissed. Interim order, if any, in connection with any application/s stands vacated.

4. No order is passed as to costs.

V.C. Misra, J.

5. I agree.