

Court No. - 8

Case :- FIRST APPEAL FROM ORDER No. - 638 of 2002

Appellant :- Union Of India Through The G.M.

Respondent :- Gopal Sagar

Counsel for Appellant :- Anil Srivastava, Hitanshu Rai, Krishna Kumar Singh

Counsel for Respondent :- A.K. Srivastava

Hon'ble Ajay Bhanot, J.

1. Heard Shri Krishna Kumar Singh, learned counsel for the appellant and perused the material available on record.
2. This first appeal from order arises out of the judgment of the learned Tribunal in Case No. O.A. 0000197 (Gopal Sagar Versus Union of India).
3. The learned Tribunal by the impugned award has awarded the compensation of Rs.2,40,000/- (Rupees Two Lacs Forty Thousand) with 7% interest to the applicant arising from the injuries sustained in a rail road accident.
4. Learned counsel for the appellant submits that though multiple grounds are pleaded, only two of the four issues which were raised for determination before the learned tribunal arise for consideration before this Court as well.
5. The first issue that arises for consideration is:-
Whether the injured was a bonafide passenger of the train in question at the time of alleged accident.?
6. The respondent claimant entered the witness box to prove the accident and establish his entitlement for compensation. The respondent-claimant had deposed before the learned Tribunal that he was traveling with a valid second class ticket on government duty from Hardoi to Lucknow station. The ticket was lost during the course of accident. The witness under cross

examination held this ground and his credit was not shaken during the trial. The testimony of this witness is reliable. The witness proved that the deceased was a bonafide passenger with a valid ticket. No contrary evidence was tendered by the appellants, nor was any such aspect pointed out during the arguments.

7. The learned tribunal which had the benefit of observing the manner of the witness also found him to be a creditworthy witness and believed his testimony. The learned tribunal also noticed that the appellant failed to produce any oral or documentary evidence to contest the claim of the claimant. The learned tribunal found that the deceased was traveling on a lawful ticket and held that the applicant was a bonafide passenger of the train in question. There is no reason for the Court to take any other view of the matter.

8. The issue no. 2 as to whether the applicant/claimant was entitled to the benefits under Section 124(A) of the Railways Act, 1989 shall now be considered. The claimant in his testimony before the learned Tribunal stated that he had suffered an accidental fall from the train on 07.08.2000 at about 5.30 AM. The depositions of the applicant were fully supported by the report of Bhriagu Ram, who was a Token Porter. The railway documents also corroborated the accidental fall from the train.

9. In this manner it was established that (i) claimant was a bonafide passenger, (ii) he suffered an accidental fall while traveling in the train on the aforesaid date and time, (iii) he sustained grievous injuries in the accident.

10. The learned Tribunal upon consideration of the deposition and affidavit of the applicant and the report of Bhriagu Ram, who was a Token Porter and an employee of the Railway Department, concluded that the injuries were sustained in the

accidental fall during the train journey. The learned Tribunal found for the claimant/applicant and against the appellant. The findings of the learned Tribunal is supported by reasons and consistent with the record and made in accordance with law. There is no basis for this Court to amend or reverse the said findings.

11. The learned Tribunal also examined the extent of the disability resulting from the accident. Upon consideration of the photographs of the applicant and the medical documents in the record found that the applicant's leg was amputated as a result of the accident. A compensation of Rs.2,40,000/- (Rupees Two Lacs Forty Thousand) was accordingly fixed.

12. Record shows that the injuries sustained and disability suffered is clearly relatable to the accident. The compensation has also been fixed in conformity with law. Nothing to the contrary was pointed out to the Court from the record or during arguments. The findings of the learned Tribunal do not warrant any interference.

13. The appeal is accordingly, ***dismissed***.

Order Date :- 10.8.2023

Arun