

Court No. - 23

Case :- FIRST APPEAL FROM ORDER No. - 509 of 2018

Appellant :- Subhash Sahni

Respondent :- Union Of India Throu.General Manager North
Cntral Railway

Counsel for Appellant :- Manish Kumar Srivastava

Counsel for Respondent :- Mahendra Kumar Misra, Neerav
Chitravanshi

Hon'ble Ajay Bhanot, J.

The claim of the appellant has been invalidated by the learned Tribunal on the sole footing that as per the amendment to the pleadings filed by the appellant, the date of journey was 12.06.2010.

Shri Manish Kumar Srivastava, learned counsel for appellant contends that the finding is perverse. Attention was invited to various pleadings and documents in the records.

Shri Mahendra Kumar Misra, learned counsel for respondent submits that the appellant had incorrectly stated the name of the train and as such his appeal is liable to be dismissed.

Heard learned counsels for parties and perused the record.

Learned Tribunal in the impugned award has found that by means of the amendment application, the appellant had pleaded that the date of journey was 12.06.2010. Thereafter, the claim was dismissed on the footing that the train in question did not run on 12.06.2010. The

finding is perverse. The pleadings in the claim petition categorically assert that the fateful journey was undertaken on 11.06.2010. The amendment application was only to change the name of the train in the claim petition. The incorrect transcribed name was transcribed due to a typographical error. The claim petition has expressly asserted that the date of journey and accident was 11.06.2010. The ticket which was recovered from the appellant also referenced the date of journey is 11.06.2010. The extract of the ticket referenced in the out patient record contains the recital that the date of journey was 11.06.2010. Further, the date of GRP Medical Report as well as OPD records of the hospital also record the date of accident and injury as 11.06.2010. All the aforesaid documents were introduced as evidence before the learned Tribunal.

In this wake, the findings of the learned Tribunal to the fact that the date of journey was 12.06.2010 is perverse. The judgment is accordingly, vitiated. The impugned judgment and order dated 006.04.2018 passed in Case No. OA/II/U/630/10 {Subhash Sahni (minor) Vs. Union of India} is liable to be set aside and is set aside.

The instant appeal is allowed.

The matter is remitted to the learned Tribunal for fresh decision on merits to determine the compensation to which the appellant-claimant is entitled.

In view of the long lapse of time, the Tribunal is

directed to conclude the trial within a period of three months and shall proceed on a day to day basis if necessary, to adhere to the above time line.

Learned counsels for both the parties undertake to cooperate in the trial proceedings before the learned Tribunal.

Order Date :- 24.3.2023

Gurpreet Singh