

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6361 of 2010 (O&M)
Date of Decision:05.02.2015

Smt. Meera Nigam and others

....Appellants

Versus

Union of India

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Gaurav Verma, Advocate for
Mr. Surender Deswal, Advocate for the appellants.

Mr. Karamjit Verma, Advocate for the respondent.

NAVITA SINGH, J.

1. By way of this appeal, the order passed by the Railway Claims Tribunal, Chandigarh (Tribunal for short) on 20.5.2010 was challenged as the claim preferred by the appellants for the death of Suresh Chander Nigam, was dismissed.

2. The case of the appellants was that the deceased was travelling to Ambala from Karnal by train on 10.6.2005 and he died in an accident because he fell out of the moving train. At the time of changing of signal/lines, the speed was suddenly accelerated by the driver due to which the deceased fell out.

3. Counsel for the appellants argued that despite holding that Suresh Chander had fallen out of the moving train, the claim was rejected for the reason that he was held not to be a bonafide passenger. It was submitted by the counsel that there was evidence on record to show that the deceased was holding a pass for the route on which he was travelling and this was evident from the fact that photocopy had been produced by the appellants as Ex.A2 and the original was also in possession of the widow.

4. Order passed on 20.5.2010 by the Tribunal shows that certain documents were accepted on the request of the claimants, which was report of Government Railway Police (Ex.A1), copy of MST and identity card (Ex.A2) and of post mortem report (Ex.A3). These documents were not tendered by the widow i.e. claimant Meera Nigam when she appeared in the witness box nor these documents were proved. Though the Tribunal may not be required to strictly adhere to the provision of Code of Civil Procedure and Indian Evidence Act, yet there has to be some procedure to be followed.

5. In any case, even if it is taken that the copy of MST was produced by the appellants and the original was available with them as stated by their counsel, the fatal blow to the case would come from the hands of the appellants themselves. The railway pass was issued in the name of the deceased on 9.6.2005 i.e. one day prior to the accident and was valid for one month. Since the original was with the family and they produced a photocopy of that, it was obvious that the deceased was not carrying the pass with him. There is no plea that he had forgotten the pass and had purchased a ticket.

6. Counsel for the appellants made a futile effort to explain the possession of the railway pass with the family by submitting that it might be that the bag of the deceased, which was lost at the time of accident, was found later on and the pass was in that bag. The argument is more amusing and interesting than legal and believable. The case of the appellants was that the deceased was using a seasonal pass as is clear from the pleadings. Nothing was mentioned in the petition about laying hands on the lost belongings of the deceased. The argument is too farfetched and cannot even be considered.

7. From the evidence of the appellants themselves, it is more than clear that the deceased was not a bonafide passenger as he was neither carrying a seasonal pass nor was possessed with a railway ticket. Even otherwise,

manner in which the accident allegedly took place would mean that the deceased was standing in the door while the train was in motion and that is why he fell out on account of some jerk when the line was being changed by the driver. He himself was entirely negligent and invited death.

8. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

05.02.2015
Ishwar

Whether to be referred to reporter: Yes