

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**FAO No.945 of 1996 (O&M)
Date of Decision: 28.04.2016.**

Union of India

....Appellant.

VERSUS

Santosh Gupta and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Karaminder Singh, Advocate for the appellant.

Mr. Satyaveer Singh, Advocate for the respondent.

SNEH PRASHAR, J.

Assailing the judgment dated 14.02.1996 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (for short, “the Tribunal”) by virtue of which compensation to the tune of Rs.2,00,000/- was awarded to the respondents-claimants in claim Case No.OA-II/7 of 1995 filed under Section 124-A of the Railways Act, 1989 (for short, “the Act”), the appellant-Union of India, through the General Manager, Northern Railways, Baroda House, New Delhi preferred this appeal.

Precisely, the facts are that on 01.08.1994 Ravi Chand Goel, husband of respondent-claimant No.1 and father of claimants No.2 and 3, who was serving as a language teacher in the Industrial Training Institute at village Ballah, District Karnal, had come to railway station Karnal to catch

the train 4659-Up for going to his home town Ambala. One Jasbir Singh, an LIC agent was also present at the platform and they both boarded a second class compartment of the train. As the train moved, there was sudden jerk due to which Ravi Chand fell down from the moving train and sustained injuries. He was immediately taken to Civil Hospital, Karnal but he succumbed to the injuries.

A claim application under Section 124-A of the Act was filed by legal heirs of Ravi Chand. They alleged that since the untoward incident occurred in the course of working of the railway, the railway administration was liable to pay compensation for the death of Ravi Chand.

The petition was contested by the appellant-railways. According to it, occurrence of the untoward incident on 01.08.1994 had been concocted by the claimants. The preliminary objections raised were that the accident was not covered within the meaning of Section 124-A of the Act and also that the deceased himself was responsible for the mishap in which he lost his life.

On the basis of pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, learned Tribunal held the claimants entitled to recover a sum of Rs.2,00,000/- from the appellant-railways and the railway administration was allowed 60 days' time to make payment, failing which the claimants were held entitled to receive the compensation amount with interest at the rate of 12% per annum from the date of order till

realization.

Feeling aggrieved with the judgment dated 14.02.1996, the appellant-Union of India preferred the instant appeal.

The submissions made by Mr. Karaminder Singh, learned counsel for the appellant and Mr. Satyaveer Singh, learned counsel for the respondents have been considered.

The only argument raised by learned counsel for the appellant is that the occurrence of untoward incident, narrated by the respondents, was not possible in the light of facts pleaded by them. Had the deceased boarded the compartment when the train was about to start, he would not have fallen down from the compartment unless he himself had taken the risk of hanging at the door outside the compartment or that he had tried to board a moving train. In both eventualities, he himself was negligent and responsible for the accident.

Considering the evidence on record and the objections raised by the appellant-railways the findings of learned Tribunal were as under:-

“The postmortem report duly proves that the deceased Shri Ravi Chand Goel expired by way of crushing by the train or its engine. The written statement filed by the railway administration is silent regarding the manner the accident took place. It has used only catch-phrases in the written statement that the accident does not fall within the purview of Section 124/124-A and that the deceased himself was responsible for inviting his death. How he was responsible,

there is no specific averments? The blank expressions taken from the provisions of the Act do not at all show that the deceased did not die because of a train accident. The two telegrams attached with the affidavit of Shri B.S. Ranga, Commercial Inspector, Northern Railway, New Delhi, have not been proved by any evidence. They being beyond the pleadings as sponsored in the written statement, cannot be taken into consideration. Otherwise in one of the telegrams, it is mentioned that “the injured (deceased) struck with the engine of 4659-Up and injured badly, and admitted in the Civil Hospital.” In the other telegram sent by the Assistant Station Master, Karnal Railway Station, it is mentioned that “the public informed that one man struck with engine of 4659-Up while passing the track. He has been admitted in the Civil Hospital.” Both these documents, in our opinion, do not at all prove, without there being any evidence, that the deceased was really passing the track and he met with the accident. The railways must have conducted an enquiry regarding the accident in question as required under the Accident Manual, but the said enquiry report has also not been brought forth for the perusal of the Bench. Even the driver of the train who was on duty at the time of accident, has not been produced or his affidavit brought on the file to show that the deceased met with the accident because of passing the track and not by an

accident by falling from the train by way of receipt of some jerk. The affidavit of Shri B.S. Ranga is also irrelevant because he was not present at the spot at the time of accident. The affidavit of Shri Jasbir Singh is quite clear and he has given the details as to how the accident took place and the deceased met with the death ultimately by receipt of injuries by the train accident.”

Learned counsel for the appellant could not demonstrate any misreading or misappreciation of evidence on part of the Tribunal. When no enquiry regarding the accident was got conducted by the appellant-railways and the driver of the concerned train was also not examined, there was no reason to accept its plea that the deceased was hit by the train engine when he was passing from the track and had not fallen from the train due to the sudden jerk.

There being no merit in the appeal, it is dismissed.

(SNEH PRASHAR)
JUDGE

28.04.2016.
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