

203 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO No.1251 of 2010 (O&M)  
Date of decision : October 03, 2016

Rajbir @ Raghubir

..... Appellant

Versus

Union of India

..... Respondent

**CORAM : HON'BLE MR. JUSTICE KULDIP SINGH**

**Present:-** Mr. Subhash Sachdeva, Advocate for  
Mr. Namit Sharma, Advocate for the Appellant.

Ms. Abha Rathore, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

**KULDIP SINGH J. (ORAL)**

This is the first appeal against the judgment dated 21.07.2009 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal'), vide which the application of the applicant-appellant for grant of compensation of ₹4,00,000/- on account of injury received by him in an untoward incident, involving the railway, was dismissed.

According to the appellant, he is labourer by profession. On the intervening night of 18/19.02.2007, at midnight about 12.30 a.m., he reached at railway station, Ambala Cantt. and purchased one mail train ticket of second class for journey from Ambala Cantt. to Karnal. When the train No.8202 Muri Express reached at railway station, Amabla Cantt., there was a great rush in its general compartment. The appellant along with other passengers boarded the train. It started with a jerk. As a result of the jerk

coupled with pull and push of the passengers, the appellant fell down on the track and sustained grievous and multiple injuries on the vital parts of the body and particularly, his left arm, which was crushed. His clothes were torn. The Station Master called the ambulance and rushed the appellant to the Railway Hospital, Ambala Cantt., from where he was shifted to Civil Hospital, Ambala Cantt. Thereafter, he was shifted to PGI, Rohtak, where his left arm was amputated from the shoulder. It was alleged that in the accident, the appellant lost his train ticket, cash amount, slips and diary, which the claimant was having in his purse. Now, he is 90% disabled.

In the reply to the claim application, the Railway-respondent took the stand that the applicant-appellant was not having any valid railway ticket. He was a trespasser and he fell down from the platform and struck against the goods train and as such, it was not an untoward incident.

From the pleadings, following issues were framed:

- “1. Whether applicant was a bonafide passenger, as alleged?*
- 2. Whether applicant sustained injuries as a result of untoward incident as defined under Section 123-C read with Section 124-A ? If so, extent thereof?*
- 3. To what amount of compensation, if any, is the applicant entitled to?*
- 4. Relief.”*

The Tribunal after examining the evidence, came to the conclusion that the applicant-appellant was not a bonafide passenger and it is not an untoward incident. Accordingly, the claim application was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

In this case, when the applicant-appellant was admitted in the hospital, Shyam Sunder, Head Constable, General Railway Police, Ambala Cantt. visited the hospital. The accident had stated to have taken place in the early hours on 19.02.2007. The statement of the applicant-appellant made to the police shows that according to him, he had consumed liquor at Karnal and had come to Ambala Cantt. where he again consumed liquor and was under the influence of liquor. When he tried to board the train Muri Express, then he lost his balance on account of intoxication and fell down between the railway lines. He was under the influence of liquor and did not know who removed him from the railway lines to the hospital. Nobody is at fault. He wanted to get himself treated. He prayed that his family members should be informed about the incident. The MLR on the file also shows that when the applicant-appellant brought to the hospital, he was found in drunken condition.

Before the Tribunal, Head Constable Shyam Sunder of General Railway Police was called as a court witness. He proved the recordings of the statement in the hospital. In his cross-examination, the applicant-appellant admitted to have made the statement in the hospital but he said that he was puzzled, therefore, he made such statement. However, the statement made by the applicant-appellant in the hospital is supported by the MLR, which shows that at the time of the accident, he had consumed alcohol. In the statement, he did not say that he had purchased the ticket. The possibility is that when the applicant-appellant himself was under the

influence of liquor, he might have forgotten to purchase the ticket or might not have intentionally purchased the ticket and when he tried to board the train, he fell down on account of effect of intoxication. Therefore, the Tribunal rightly held that the applicant-appellant was not a bonafide passenger. It is not the case of untoward incident. Thus, there is no ground to interfere in the findings recorded by the Tribunal.

As such, the present appeal is dismissed.

**October 03, 2016**

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

No

**(KULDIP SINGH)**  
**JUDGE**