

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1639 of 2013 (O/M)
Date of decision : 28.11.2016

Nanak Chand and others Appellant (s)

Versus

Union of India Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Somesh Gupta, Advocate, for the appellants.

Mr. Karminder Singh, Advocate, for 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 ?

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KULDIP SINGH J. (ORAL)

The appellants have impugned the judgment dated 8.10.2012, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (in short 'the Tribunal'), vide which the application filed by the applicants-appellants for compensation was dismissed.

For brevity, the facts are that on 21.7.2011, Subhadra, mother of the applicants, was to go from village Chata to Phillaur, by train. She purchased a ticket upto Jalandar City to meet her son, who live at Phillaur. Her son Nanak Chand saw her off at Chata railway station at 1733 hours. When she boarded the train, there was heavy rush in the general coach. The train reached Phillaur railway station, where her son Satya Dev had come to receive her. While alighting from the train, Subhadra, who was aged about 70 years, slipped from the train, fell down and received injury on the head and was removed to Arora Nursing Hospital by her son, from where she was

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referred to DMC Hospital, Ludhiana. She died on the way to DMC Hospital. She was taken back to Arora Hospital. The GRP reached the hospital and two journey tickets one from Chata to Jalandhar City and one for excess fare ticket were recorded from her.

The respondents in the written statement had taken the stand that Smt. Subhadra was not a passenger of the train at the relevant time. She was also not a bonafide passenger. It was denied that she fell from the train. Infact, one lady was reported to be lying on platform No. 2, which shows that she had already completed the journey and at the relevant time, she was not a passenger of the train. Therefore, the railways is not liable to pay the compensation.

From the pleadings, following issues were framed :-

1. Whether the deceased was a bonafide passenger of train at the time of incident ?
2. Whether the incident is covered within ambit of Section 123 (c) (2) read with Section 124-A of the Railway Act ?
3. Whether the applicant (s) is/are the sole dependants of deceased in this case ?
4. Relief.

The Tribunal came to the conclusion that she was not a bonafide passenger at the time of receipt of alleged injury as she had already completed the journey. Accordingly, the claim application was dismissed.

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

The moot question arising for consideration before this Court is as to whether Smt. Subhdara fell down while alighting from the train and

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received the fatal injury on the head or she fell down on the platform No. 2 on account of heavy luggage carried by her and received injury ?

The evidence on file overwhelmingly shows that she fell down from the train. First is the report by the SHO (Annexure-A-3), who inspected the spot and carried out the investigation and found that Smt. Subhdara fell down from the train No. 18237 while alighting from it due to slip and received injuries and later on succumbed to the same. The verification by the police after inspecting the spot and investigation is a strong evidence to show that the version put forth by the applicants is correct. The second is the inquest report as well as the post mortem report. In the inquest report, it is reported that the injury is due to railway accident as per the opinion of the medical officer. The post mortem report (Annexure-A-11) shows that there was one depressed fracture over the skull about 3.3 cm. The doctor has opined that all the injuries are ante mortem in nature. The injuries are due to railway accident. The opinion of the doctor supports the investigation done by the SHO, who had concluded that she slipped from the train and fell down and received the injury. The report of the Station Master (Annexure-A-9) merely shows that the said passenger Subhadara was found lying injured at platform No. 2 and after giving first aid, she was removed to the hospital. This report does not show as to where she had received the injury. Further the informatory letter by Arora Nursing Home, where the injured was first taken for treatment shows that the hospital had written a letter to the railway police stating that the passenger, namely, Subhadara, with head injury has been admitted to hospital after fall from the train at railway station Phillaur. The Railway Protection Force (RPF) report regarding the inquiry into the incident dated

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14.3.2012 also shows that after the inquiry by it, it was found that Smt. Subhadara while alighting from the train slipped and fell down and received injury. All these facts go to support the case of the applicants that the deceased had in fact slipped while alighting from the train. Therefore, it is a case of untoward incident involving the railways when the deceased was still a bonafide passenger. Consequently, the findings recorded by the Tribunal are hereby set aside. The impugned judgment is set aside. The appeal is allowed. The respondents are ordered to pay Rs. 4 lacs compensation to the applicants with interest at the rate of 9% per annum from the date of filing the claim petition till payment.

(KULDIP SINGH)
JUDGE

28.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes