

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

**FAO No.1308-2014 (O&M)
Date of Decision: 28.03.2016.**

Union of India

....Appellant.

VERSUS

Sandeep alias Sandeep Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Abha Rathore, Advocate for the appellant.

Mr. S.R. Chaudhary, Advocate for the respondent.

SNEH PRASHAR, J.

Assailing the judgment dated 19.07.2013 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (for short, “the Tribunal”) by virtue of which an amount of Rs.1,80,000/- was awarded as compensation to Sandeep Kumar (respondent-claimant) for the injuries suffered by him in a railway accident that took place on 26.12.2010, the appellant-Union of India, through Deputy Chief Commercial Manager, Northern Railway, New Delhi, preferred this appeal.

The case of the claimant was that he is a computer networking professional and is working at Chandigarh. On 25.12.2010 he had gone to Agra alongwith his colleagues and on 26.12.2010 for returning to

Chandigarh had reached Agra Cantt Railway Station and purchased a general class ticket for Delhi. While boarding the train at Platform No.4 as the train took a jerk, he fell down and his left foot got crushed. He was taken to hospital by GRP officials for treatment. His left foot below the knee was amputated due to the injuries.

The claim petition was filed by the claimant against the appellant-Union of India claiming Rs.5,00,000/- as compensation. The petition was contested by the appellant-Railways raising objection that the accident does not fall within the provisions of Section 123(c)(2) read with Section 124-A of the Railways Act, 1989 (for short, "the Act of 1989"). They denied occurrence of any untoward incident resulting in injury to the claimant. It was also denied that the claimant-injured was bonafide passenger of the train at the time of incident as he was not having a valid railway ticket.

On the rival pleadings of the parties, issues were framed. Both the parties led evidence. Considering the ocular and documentary evidence led by the parties and the submissions made on their behalf, learned Tribunal awarded compensation as indicated above.

Feeling aggrieved with the judgment dated 19.07.2013, the appellant preferred the instant appeal.

The submissions made by Ms. Abha Rathore, learned counsel for appellant and Mr. S.R. Chaudhary, learned counsel for the respondent have been heard and the record perused.

Two fold argument was raised by learned counsel for the

appellant. She submitted that since the claimant did not possess a valid railway ticket it was proved that he was not a bonafide passenger of any train. Secondly, the claimant was found on Platform No.4 at 10:50 a.m. whereas it was mentioned in the affidavit of Rodra Singh, Head TTE at Agra Cantt Railway Station, that no train stopped at Platform No.4 during the period 10:00 to 10:50 hours which proves that no untoward incident occurred on Platform No.4 of the Agra Cantt Railway Station. Therefore, the incident does not fall within the provision of Section 123(c)(2) of the Act of 1989.

Rodra Singh, Head TTE deposed through his affidavit Ex.RW1 that on 26.12.2010 when he was on duty at Agra Cantt Railway Station, he was informed at 10:50 hours by TXR staff that an injured person was lying at Platform No.4. On receipt of information he gave memo at 10:55 hours to Railway doctor on duty who reached the spot and attended the injured person. During his cross-examination, the witness could not name the TXR staff official who gave him information. He also admitted that he had met the injured, when the GRP officials were taking him to the hospital. From the deposition of RW1 Rodra Singh, it is clear that the claimant was found lying in an injured condition on Platform No.4 by the TXR staff and he too had seen him there. The TXR staff who gave information about the injured was the best person to state about the incident in which the claimant had suffered injuries. What to say of examining him even his identity was not disclosed by the appellant. For the reason that the best evidence available with the appellant was intentionally withheld, an adverse inference has to

be drawn against it.

Although it was the stand taken by the appellant that no train passed from Platform No.4, Agra Cantt Railway Station from 10'O clock to 10:50 hours, but it is not their case that no train proceeding to Delhi had passed from Platform No.5. RW1 Rodra Singh, Head TTE admitted in his cross-examination that Platform No.4 and 5 are combined, therefore, for the mere reason that the claimant mentioned Platform No.4 instead of Platform No.5 can be no ground for disbelieving his statement with regard to the untoward incident during which he suffered serious injury while boarding a train.

The claimant stated that during the accident he lost the ticket bought by him. He stated that he had kept the ticket in his jacket and immediately after the accident he had become unconscious. The DRM report of appellant-Railways contained a statement of the claimant recorded during enquiry held by the railways wherein also he specifically stated that he had purchased a general class ticket before boarding the train but had lost the same during the accident. The claimant was resident of Chandigarh and admittedly he had travelled with his colleagues on 25.12.2010 against a reserved train ticket, therefore, on 26.12.2010 when at the Agra Cantt Railway Station he fell and suffered serious injuries while boarding the train, there is no reason to disbelieve him that he had purchased a general class ticket before boarding the train.

No evidence was led by the appellant to rebut testimony of the claimant. Therefore, learned Tribunal rightly held that the claimant was a

bonafide passenger of the train at the time of accident. The defence taken by the appellant was that the claimant suffered injury somewhere else and somehow reached Platform No.4 of Agra Cantt Railway Station with an intention to claim compensation. No evidence worth in its name was led by the appellant to support such a defence. Thus, seen from every angle the finding of learned Tribunal that the claimant established that he was a bonafide passenger at the time of accident and became victim of untoward incident as defined under Section 123(c)(2) read with Section 124-A of the Act of 1989 calls for no intervention.

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

(SNEH PRASHAR)
JUDGE

28.03.2016.
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