

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

FAO No. 290 of 2013 (O&M)
Date of Decision: 18.11.2016

RAMESH KUMAR

.. Appellant

VS.

UNION OF INDIA

..Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Somesh Gupta, Advocate,
for the petitioner.

Mr. Karminster Singh, Standing Counsel,
for the respondent-Union of India.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 30.04.2012 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short “the Tribunal”) vide which the claim application filed by the Ramesh Kumar (appellant herein) was dismissed.

Brief facts of the present case are that Ramesh Kumar-claimant applicant was to go from Chandigarh to Hardoi. On 22.06.2010 in order to board Sadbhawna Express train from Chandigarh railway station, Ramesh Kumar accompanied by his cousin, reached railway station and purchased railway tickets for 2 persons from Chandigarh to Hardoi. There was heavy Rush in the train. When Ramesh Kumar tried to board the train, the train started moving and due to sudden jerk, he slipped and fell down from the train. Consequently an accident occurred in which Ramesh Kumar got injured and his fingers and Right Hand Thumb were amputated. Thereafter, he was shifted to PGI, Chandigarh where his right hand was amputated as per Annexure A-5.

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The Respondents in the reply have taken the stand that there was no untoward incident and that the applicant was not a bonafide passenger.

From the pleadings the following issues were framed: -

1. Whether the applicant/injured was a bonafide passenger 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 Railways Act?
3. What are the scheduled and non-scheduled injuries sustained by the applicant/injured?
4. Whether the injured became victim of an incident which falls under Section 124-A proviso (b) as stated in written statement (para 2)?
5. Relief.

After hearing both the parties, the Tribunal came to the conclusion that since applicant-claimant (Ramesh Kumar) tried to board a running train, therefore, it is a case of self-inflicted injury. It was further observed that since no source of ticket has been put forward by the applicant-claimant and the co-passenger has not been produced, therefore, he was not a passenger and much less a bonafide passenger.

I have heard learned counsel for both the parties.

The ticket on file shows that it is a computerized ticket purchased for two persons on the same date. Once, the valid ticket is there and appellant tried to board a train, he is deemed to be a bonafide passenger. The action of the appellant in trying to board a running train can be called a foolish or negligent act but it cannot be called as an act of self inflicted injuries within the meaning of Section 123 (c) (2) read with Section 124-A of the Railways Act. The facts and circumstances clearly show that the applicant

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was immediately removed by the GRP to the PGIMR, Chandigarh where he was treated upon. In history sheet, it was recorded that he fell down while trying to catch a running train at Chandigarh Railway Station. His operation was performed in the PGIMER, Chandigarh on 23.06.2010 and his right hand was amputated. In the statement of the appellant which was recorded immediately after the incident on 23.06.2010, he has stated that while trying to board the train, he lost the grip and fell down and received the injuries. It being so, it has to be held that appellant was a bonafide passenger and it is an untoward incident.

In view of foregoing discussion, the present appeal is allowed, impugned judgement dated 30.04.2012 is set aside consequently the findings of the Tribunal on issues No. 1 to 4 are hereby reversed. Since, the case of the appellant is covered under Clause 4 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, therefore, he is entitled to a compensation of ₹ 2,40,000/- alongwith interest of @ 9% per annum from the date of filing of the claim petition i.e. 19.01.2011 till its payment.

November 18, 2016

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No