

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No. 3913 of 2013(O&M)

Date of decision: 11.07.2016

Shayam Singh

.....Appellant

versus

Union of India

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Somesh Gupta, Advocate for the appellant
Mr.Sandeep Vermani, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ? **Yes***
- 2. To be referred to the Reporters or not ? **Yes***
- 3. Whether the judgment should be reported in the Digest? **Yes***

Kuldip Singh, J. (Oral)

CM No.15912-CII of 2013

For the reasons mentioned in the application, it is allowed and 116 days delay in filing the appeal stands condoned.

FAO No.3913 of 2013

This is first appeal against the judgment dated 31.12.2012, passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, whereby the claim petition filed by the present appellant was dismissed.

According to the appellant on 3.5.2011, he had gone from Hisar to Bhiwani to meet his relations. After meeting the relations, he reached the Bhiwani Railway Station and purchased a ticket from Bhiwani to Hisar and boarded Kissan Express Train. There was heavy rush in the train. When the train crossed the Satroad railway station near Hisar railway station, the

applicant-appellant came near the gate of the railway compartment and stood at the gate. The train took a jerk and he fell down from the running train and got seriously injured. He became unconscious and somebody removed him to Civil Hospital, Hisar, where the authorities informed the General Railway Police, which recorded his statement, wherein he stated that he had purchased the ticket from Bhiwani to Hisar for Rs.34/- which he lost in the accident along with cash of Rs.2500/- and a bag. As a result of the accident, his right arm was amputated.

Before the Tribunal, the railway took the stand that petitioner was not a bona fide passenger. No ticket was recovered from him. No untoward incident under Section 123(c) read with Section 124-A of the Railways Act took place. It is stated that no alarm was raised by the co-passenger. Therefore, no accident, as claimed took place.

The Tribunal framed the issues and after recording the evidence took the view that no ticket was recovered from the possession of the claimant. It was further observed that the ticket from Bhiwani to Hisar is for Rs.24/- and not Rs.34/- as claimed by the claimant. If he had fallen from the running train, the co-passenger might have noticed it and pulled the chain or informed GRP. It was further observed that accident is stated to have taken place around 7.00 pm on 3.5.2011 but he was admitted in hospital at 3.00 AM i.e. on the next day by one Raj Kumar (Owner) from near the railway station. Raj Kumar was not examined. Consequently, the claim application was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the record of Tribunal.

The bed head ticket (Ex.A8) shows that the claimant was

brought to the hospital by one Raj Kumar owner from near railway station on 4.5.2011 at 3.00 am. There was a crushing of right forearm and it was profusely bleeding. Ultimately, the right arm was amputated. The discharge slip (Ex.A9) shows that it is recorded to be a case with history of railway accident. It further comes out that after the admission, the appellant was approached by the General Railway Police, which recorded his statement Ex.A4 on 5.5.2011. The injured had reiterated his version given in the present petition stating that he has fallen from the train. At the time of making statement to GRP, the appellant was in serious condition in the hospital. Therefore, he had no time to concoct any story. As per hospital record, he was brought from near the railway track. Now the question is whether the story of the claimant is to be believed that he fell from the train and received injuries and lost his ticket along with other baggage?

I am of the view that when a person falls from the running train and received such serious injuries and remained lying at the spot for a considerable period, he is likely to lose his luggage in this process, much less a ticket which is very small in size. Nothing was found on the person of the appellant showing that he had also lost the cash. Therefore, mere non-recovery of the ticket is no ground to discard the claim. Regarding discrepancy of fare, it is to be noticed that there are different fares for the passenger train and the Express train. Therefore, discrepancy in the fare cannot be given much weightage as sought to be pressed by the Tribunal. Further, the fact that Raj Kumar who got the appellant admitted in the hospital on humanitarian ground was not examined is no ground to discard the claim of the present appellant. The DRM in his report has simply stated that ticket was not produced and no accident was reported. However, the

spot was not inspected to see whether there was any blood at the spot to indicate that whether or not the accident took place?

In these circumstances, the simple denial of the railway is not sufficient to discard the claim of the appellant. Therefore, it is held that the appellant was a bona fide passenger and that he suffered amputation of his right arm due to untoward incident. As such, finding of the Tribunal on all the issues are reversed. Consequently, the present appeal is allowed. The railway -respondent is ordered to pay compensation of Rs.2.40 lacs in terms of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 along with Rs.3000/- paid by the appellant to the Hospital for the medical expenses with interest @ 9% per annum from the date of filing of the claim petition till its realization.

Appeal is accordingly allowed.

11.07.2016
gk

(Kuldip Singh)
Judge