

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3475 of 2015 (O&M)
Date of Decision: 3.10.2016

Union of India

.... Appellant

vs.

Mahasingh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Nitin Kumar, Advocate for the appellant

Kuldip Singh J.(Oral)

CM-10371-CII-2015

CM-10372-CII-2015

In view of reasons mentioned in applications, delay of 151 days in refiling and 18 days in filing the appeal stands condoned.

The applications stand allowed.

FAO No.3475 of 2015

This is an appeal by Union of India against judgment dated 21.4.2014 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal'), whereby on account of death of Mohit, 18 years student on 14.10.2011, in untoward incident, the Union of India was ordered to pay Rs.4,00,000/- as compensation, to the applicants with simple interest @ 6 % per annum from the date of application till the date of pronouncement of decision.

Brief facts of the case are that Mohit, aged about 18 years, was a student and was studying at Sonapat. On 14.10.2011, he boarded KDM train (mentioned as 4 KDM train) from Bhodwal Majri to attend his

College, at Sonapat.

When the train went little ahead of village Ganaur, he fell down from the train and received grievous injuries. Hawa Singh (AW2) saw him lying injured near the Railway track and removed him to the General Hospital, Sonapat, from where he was referred to the Soharta Trauma Centre, Delhi where he was declared as brought dead.

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

Learned counsel for the appellant has argued that the train number is wrongly mentioned as 4 KDM, which arrives in the evening and it is 2 KDM train which arrives in the morning.

I am of the view that though name of the train i.e. KDM is correctly mentioned and if the number is wrongly mentioned, it hardly matters. The statement of Hawa Singh (AW2) shows that he found that Mohit was lying injured near the railway track and some people were standing there. He was also a daily commuter. As he saw the boy, he picked up his belonging which included one broken mobile, college I-card, band and one journey ticket and later on gave to his mother. When the boy was picked up from near the Railway track, he was alive, but was in serious condition. The journey Ticket (Annexure A5) was produced before the Tribunal.

The perusal of the post mortem report as produced during the arguments by the learned counsel shows that the injuries suggest that it is a case of fall from the train. The injured was found lying near the railway track. He was removed by AW2 Hawa Singh to the hospital. There are many facts and circumstances which show it is to be a untoward incident. The

deceased was a student and studying in college in Sonapat. He boarded the train from village Bhodwal Majri. He was having a valid ticket. Nowadays, a computerized Railway ticket, bearing serial No. and the time of issuance is mentioned on the ticket, as such, it cannot be fabricated. Therefore, it is found that the deceased was travelling in the said KDM train at the time of accident. The fact that he fell down somewhere after the train passed Ganaur Railway Station, goes to show that it is a case of fall from the train and not a case of suicide or crossing the Railway line. It is not the case of the Union of India that the train stopped after the accident. Therefore, the passenger along with the train left for its destination and it is difficult to find the passenger, who actually saw the accident. The mere fact that the driver and the guard did not see the boy falling from the train is no ground to disbelieve the incident. The facts and circumstances in the case speak for itself to show that it is a case of fall from the train in an untoward incident. The deceased was a bona fide passenger. The judgment of the Tribunal is well reasoned, thus, there is no ground to disagree with the findings recorded by the Tribunal. Hence, there are no merits in the present appeal.

Resultantly, the present appeal is dismissed.

3.10.2016

gk

(Kuldip Singh)

Judge

Whether speaking / reasoned

Yes

Whether reportable

No