

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5889 of 2013 (O&M)

Date of decision : December 08, 2016

Smt. Sita Devi and another

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kulvir Narwal, Advocate for
Mr. Amit Shivrain, Advocate for the appellants.

Mr. Rohit Suri, Advocate for the 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 ?

KULDIP SINGH J. (ORAL)

This is the first appeal against the judgment dated 13.03.2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal'), vide which the application filed by the appellants for grant of compensation was dismissed.

It is the case of the appellants that on 01.09.2009, one Dheeraj Kumar son of Late Shri Om Parkash, husband of appellant No.1 and brother of appellant No.2 was to go from Bhiwani to Rohtak for business purposes. He left the house early in the morning on 01.09.2010 and boarded the train. On the next day i.e. 02.09.2010, appellant No.2 was told by a newspaper hawker that his brother Dheeraj Kumar was lying dead on railway track in the yard at Bhiwani City Station. When appellant No.2 reached the spot the General Railway Police was present there. From the personal search of the

deceased, some cash, two railway tickets from Ex. Bhiwani to Rohtak and from Rohtak to Bhiwani dated 01.09.2010 were recovered. According to the appellants, the deceased died due to untoward incident involving railway.

In the reply, the respondent by denying and disputing the averments made in the claim application stated that it was not an untoward incident involving railway and that the deceased was not a bonafide passenger. It is stated that the dead body of Dheeraj Kumar was lying within the track, which is not possible due to fall from the train.

From the pleadings, following issues were framed:

- “1. Whether the deceased was a bonafide passenger at the time of incident?*
- 2. Whether the incident is covered within ambit of Section 123(c) read with Section 124-A of the Railways Act?*
- 3. Whether the applicant(s) is/are the sole dependents of the deceased?*
- 4. Relief.”*

The Tribunal while noticing that the dead body was lying in the middle of the track at a yard, which is between Bhiwani City Railway Station and Bhiwani Station, which are at km 42.50 and km 47.30 respectively, recorded that the dead body was found at km 44/4-5, which is a railway yard. The house of the deceased from the spot was just 500 meters away and the deceased might be crossing railway track or roaming in railway lines and struck against some moving train. It was also noticed that there was only single line track. The dead body was found between the single line track and the possibility of fall from train is not there. It was also noticed that the deceased purchased the ticket from Rohtak at 13.41 hours

on 01.09.2010. After that two trains come from Ex. Rohtak to Bhiwani i.e. 14.15 hours and 17.45 hours, which reached at Bhiwani City railway station at 15.07 hours and 18.51 hours respectively. Therefore, it is not possible that when the deceased fell from the train, nobody noticed the dead body lying there till the next morning. Thus, it was concluded that the deceased must probably after completing the journey, was roaming on the railway line. Consequently, he was not a bonafide passenger and railway is not responsible for the said accident.

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

Admittedly, the deceased had gone from Bhiwani to Rohtak and was to come back. He had purchased ticket from Rohtak to Bhiwani at 1.41 p.m. and presumably commenced his journey after purchasing the ticket. The journey time from Rohtak to Bhiwani is stated to be about more than one hour.

Now, the question would arise whether the deceased fell from the train during the course of journey from Rohtak to Bhiwani or Bhiwani City Railway Station or it is an incident, in which the deceased died while crossing the railway line or some other manner and is not untoward incident involving the railway?

Admittedly, the place of the accident is 500 meters away from the house of the deceased. After boarding the train from Rohtak to Bhiwani, he might have deboarded either at Bhiwani City Railway Station or Bhiwani Railway Station. Both the stations are approximately 2-1/2-3 kms. away from where the dead body was recovered and 500 meters away from the

house of the deceased. The inquest report prepared by the GRP shows that it is single line, where the dead body was found lying with the face upward. The dead body was lying parallel to the railway line. The postmortem report reveals that the injuries were on the front of the face, head and chest etc., which are apparently as a result of hitting of some heavy object from the front side.

The fact that there is no amputation of any organ of the body, goes to show that the deceased came from the front side of the train. He was hit by the train and fell parallel to the railway lines between two lines and the train passed over his body without crushing any part of the body. The nature of the injuries itself ruled out the injuries being caused as a result of fall from the train. From the nature of injuries, it can be safely concluded that the deceased was coming forward in the middle of the single railway track and was hit by the train. The place of the accident is a railway yard and just 500 meters away from the house of the deceased. Therefore, it appears that the deceased deboarded at the railway station and might be going from his house by taking shortest route and in this process, he was hit by a train coming from the front side. Another possibility can be that the deceased intentionally walked on the single track and was hit by the train, which give indication of suicide. There are no other circumstances in which the deceased could die in the present case.

It being so, it can be safely concluded that the deceased did not fall from the train during the course of journey or while deboarding the train. Therefore, the said accident is not an untoward incident, involving the railway.

As such, in these circumstances, the railway cannot be held responsible to pay the compensation to the family of the deceased under Section 124-A of the Railway Act.

It being so, the findings of the Tribunal with the abovenoted findings are affirmed. As such, the appeal is, accordingly, dismissed.

(KULDIP SINGH)
JUDGE

December 08, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes