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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 839 of 2014 (O/M)
Date of decision : 8.9.2016

Nanak and another

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Sunita Nambiar, Advocate, for,
Mr. Balkar Singh, Advocate, for the appellants.

Ms. Chetna Rao, Advocate, for 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 ?

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KULDIP SINGH J. (ORAL)

The present appeal is directed against the judgment dated 25.10.2013, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, vide which the claim application of the present appellants was dismissed.

The case of the appellants is that Vinod son of the appellants boarded a local train from Faridabad on 13.7.2011 to deliver lunch to applicant No. 1. It is stated that due to heavy rush and jerk of the train, the son of the appellants fell down from the running train at km 1505/26 near New Town, Faridabad Railway Station. He was having a valid monthly seasonal ticket from Banchari to Faridabad from 27.6.2011 to 26.7.2011.

The Railway contested the claim on the ground that the deceased died as a result of injuries suffered by him having been hit by MQF-Special train near down starter signal. The body was found lying in

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the middle of third line. It was stated that the deceased was not a passenger of the train and, therefore, the applicants are not entitled to compensation.

From the pleadings, following issues were framed :-

1. Whether the deceased was a bonafide passenger of train 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. Whether the applicant(s) is/are the sole dependents of the deceased ?
4. Relief.

The Railway Claims Tribunal has returned the finding that the deceased was not a bonafide passenger of the train and that the position of the dead body revealed that he committed suicide by coming in front of the goods train. Therefore, the applicants are not entitled to compensation.

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

Before the Railway Claims Tribunal, Kishan Singh Meena, Loco Pilot appeared as RW1 and stated that he was on duty on Gangapur City to Tugalkabad on Moga Special Goods train on 12.7.2011. On 13.7.2011, at about 09:55 hours when the train was passing through Faridabad New Town Railway Station, suddenly a boy came in front of the train in between the railway lines near starter signal at km 1505/26. He blew horn, but the boy did not move and was run over by the train. The witness was cross examined at length. He clarified that the boy was hidden by the side of the pillars of foot over bridge. As soon as the train crossed the foot over bridge, the boy came in front of the train and stood in between

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the track and was struck by the goods train on the third down line. It also comes out that the father of the deceased admitted that the body of the deceased was cut into two pieces. The post mortem report also shows that the dead body was cut into two pieces. In case of fall from the train, the body never cuts into two pieces. The position of the body showing that it was lying on the middle of the line, coupled with the statement of the driver of the goods train goes to show that the deceased was run over by the goods train and was not travelling on the local passenger train, as sought to be made out by him. Therefore, he was not a bonafide passenger. There is no illegality or infirmity in the impugned judgment. Accordingly, the appeal is dismissed.

(KULDIP SINGH)
JUDGE

8.9.2016
sjks

Whether speaking / reasoned	:	Yes
Whether Reportable	:	Yes