

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

RSA-207 of 2016 (O&M)

Date of decision: 20.01.2016

State of Haryana

...Appellant

Versus

Shadi Ram

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

CM-676-C-2016

Keeping in view the averments made in the application, the same is allowed. The delay of 90 days in filing the present appeal is hereby condoned.

RSA-207-2016

By way of the present appeal, the appellant-State of Haryana has assailed the judgment dated 10.07.2015, passed by Addl. District Judge, Ambala, upholding the judgment dated 03.03.2014, passed by Civil Judge (Jr. Divn.), Ambala City, whereby the suit for payment of compensation filed by the defendant/respondent was decreed against State of Haryana to

the tune of Rs. one lakh only, but the suit was dismissed against Union of India.

2. On behalf of the appellant, it is contended that both the Courts below have gravely erred while passing the impugned judgments despite there being cogent and trustworthy evidence on record that the alleged police official was not the official of Haryana Police. The defendant-respondent did not produce any record pertaining to his medical treatment during the pendency of the suit. No complaint against the erring police officials was filed by the respondent nor he impleaded any official as a party to the suit. The respondent alleged that he was pulled down by the police official(s) from the train, however, he failed to disclose the name/number or identity of such police official(s). The learned Counsel for the State further submits that even it has not been established on record that the police officials were of Haryana Police or GRP. Even the other members of forces like RPF, BSF or GRP wear Khaki uniform, but, the trial Court has wrongly held that the police official, who allegedly pulled down the respondent belonged to the Haryana Police. Moreover, as per version of the respondent, he remained injured on a railway track which falls under the jurisdiction of Union of India, Department

of Railways, therefore, the onus must be upon Union of India to compensate the respondent. However, the trial Court had fixed the liability of the appellant-State of Haryana in a very casual manner. Therefore, the present appeal deserves to be allowed.

3. Heard, the learned counsel for the appellant.

4. The Court has perused the entire record. It is not in dispute that on 23.09.1989, the respondent got injured on account of falling off a train on the railway track in the process of boarding the train and his right leg was badly crushed under the wheels of the train. The respondent had laid his claim before the trial Court that on 23.09.1989, he boarded Himalayan Queen Express from Chandigarh to take part in a rally organized in Delhi against the Government. When the train halted at Ambala Cantt, he got down to drink water and in the process of boarding the train, a Constable of Haryana Police pulled him down as one of the suspected participants of the rally. The assertion of the respondent had been duly corroborated by the eye witnesses PW2 Prithvi Singh and PW3, Balwant Singh in their respective testimony. The claim of the respondent is duly established from his medical record showing that the right foot of the respondent was amputated and he was declared 55% handicapped. The main

argument of the learned State counsel is that it is not proved that the Constable who pushed the plaintiff was of Haryana Police, as under the territorial jurisdiction of the railway, only Govt. Railway Police and Railway Protection Force is deployed and the Haryana Police is not deployed on the railway platforms. He assailed the liability part that State of Haryana is not liable to pay the compensation because the incident occurred within the railway jurisdiction. The argument has no force in view of the statement of the plaintiff that it was the Haryana Police Constable who pushed him resulting injuries. There is no statement on behalf of the State of Haryana that none of the Haryana Police constable was posted, deputed or deployed at the railway station. The State has failed to rebut the allegation of the plaintiff that there was some rally against the then Government at Delhi and the Haryana Police constable believing that the plaintiff is one of the agitators, pushed him down at the railway station. The quantum of the compensation is also not on higher side keeping in view the amputation of right foot.

5. Thus, from the oral as well as documentary evidence on record, both the Courts below have rightly passed the impugned judgments and decrees against the State of Haryana.

Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence. In **Kashmir Singh** Vs. **Harnam Singh and another**, 2008(2) RCR (Civil) 688, it has been held as under:-

“17. The general rule is that High Court will not interfere with concurrent findings of the Courts below. But it is not an absolute rule. Some of the well recognized exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to 'decision based on no evidence', it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.”

These are pure findings of fact. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for. So, the judgment and decrees of both the Courts below are affirmed.

Dismissed in limine.

20.01.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE