

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.3141 of 1999(O&M)

Date of decision: 10.01.2017

Union of India

.....Appellant

versus

Jagpal Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Puneet Jindal, Senior Advocate with
Ms.N.A.Mahajan, Advocate for the appellant
Mr.Vishal Sodhi, Advocate for the respondent

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

Kuldip Singh, J. (Oral)

The present appeal is directed against the judgment dated 20.7.1999 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal'), vide which, claim application filed by the respondents-applicants was allowed and they were awarded compensation to the tune of Rs.four lacs in equal share along with interest thereon.

On 28.11.1997, Mukesh Kumar son of Jagpal Singh was travelling in second class in train no.NP-4 from New Delhi to Balabgarh. Near Ballabgarh between Tughlakabad and Faridabad, due to heavy jerk, the deceased Mukesh Kumar fell from the train and died at the spot.

Railway in the written statement has stated that no untoward incident as alleged took place. From the pleadings following issues were

framed:-

1. Whether the deceased was a passenger of the ill-fated train?

OPA

2. Whether any untoward incident within the meaning of Section 124-A of the Railways Act took place as alleged in the claim application? OPA

3. Who are the dependents of the deceased? OPA

4. Whether the claim application is not maintainable as alleged in the written statement? OPR

5. Relief.

The Tribunal held that the deceased was a bona fide passenger and that it is a case of untoward incident.

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

Examination of file of the Tribunal shows that the body of the deceased was cut into two pieces from the waist. Lower portion i.e. leg portion was lying between the tracks and torso was lying outside the track. This indicates that while falling from the train legs of the deceased were sucked under the train and this is the reason why body was cut from the waist. Since the body was cut from the waist, therefore, the ticket is likely to be lost, which is likely to be in the pocket of the trousers, from where the body was cut. So far as the fact whether the deceased was the passenger of the train, it comes out that the applicants have examined two witnesses, namely, Subhash Chowdhary, who saw off the deceased at the railway platform, New Delhi and other is Yogender Saini, who was the co-passenger in the train.

Learned counsel for the appellant has assailed the testimony of both the witnesses stating that in the cross-examination, Shri Subash Chowdhary has stated that he had not purchased the ticket. However, when the examination-in-chief and cross-examination is read together, it comes out that according to Subash Chowdhary, deceased had purchased the ticket for himself and platform ticket for the witness. If the deceased could not tell the minor details like platform Nos. 3 or 4, it hardly matters. The testimony of Subash Chowdhary is supported by the statement of Yogender Saini, who according to him, was the co-passanger and saw the deceased falling from the train due to jerk. Cross-examination at length of Shri Yogender Saini shows that he read the news in the little read newspaper '*Mazdoor Morcha*' and came to know about the tragedy and came forward to depose. I am of the view that even if the circulation of the said newspaper is very limited, it does not mean that nobody will read the newspaper and if from any sources Yogender Saini had come to know about the tragedy and he came forward to depose, it cannot be said that he is a interested witness, particularly when from the evidence, it does not come out that deceased was related to said Yogender Saini. The claim of Yogender Saini that he is daily commuter was also not disputed. He had also produced his railway pass to support his claim.

It being so, no illegality or infirmity can be found in the findings recorded by the Tribunal on all the issues. Consequently, the present appeal fails and is dismissed.

10.01.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

Yes