

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 201

FAO No.3563 of 2007 (O & M)

Date of Decision: September 26, 2017

Usha Rani & others

..... APPELLANTS

VERSUS

Union of India

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. Somesh Gupta, Advocate, for the appellants.

Mr. P.C. Goyal, Advocate, for the respondent.

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Jaspal Singh, J

The instant appeal has been preferred by the appellants – claimants against Award dated May 10, 2007 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, ‘Tribunal’), whereby claim application/petition filed by them has been dismissed holding that the appellants cannot be held to be the sole dependents of the deceased.

Briefly stated, the facts giving rise to the instant lis are that on September 20, 2004, Ashok Kumar alongwith his mother-in-law was travelling in the train from Ludhiana to Saharanpur against two IInd Class railway ticket Nos.14150350 and 14150351. Accidentally, Ashok Kumar fell down from the running train between Sarai Banjara and Rajpura railway stations and died. His widow alongwith three minor children instituted a claim application before the Tribunal under Section 16 of the Railway Claims Tribunal Act, 1987 (for short, ‘RCT Act’) read with Section 12-A of

the Railways Act, 1989 (for short, '1989 Act') seeking compensation of ₹ 4 lac for the death of Ashok Kumar in the aforementioned alleged untoward incident.

Respondent contested the claim application by filing written statement taking specific plea that no such incident took place causing the death of Ashok Kumar; claim application is not maintainable; deceased was not a passenger of the train; number of the train is not mentioned in the claim application and as such, appellants are not entitled to any compensation.

Replication was not filed. From the pleadings of parties, issues were framed by the Tribunal.

After hearing learned counsel for the parties and appreciating the evidence as well as documents, claim application of the appellants – claimants was dismissed vide Award dated May 10, 2007 was dismissed by the Tribunal.

Aggrieved by the aforesaid award, claimants have approached this Court through the instant appeal.

While assailing the impugned award, it has been vehemently argued by learned counsel for the appellants that the same is contrary to law and facts. Misreading of evidence has resulted into miscarriage of justice. The Tribunal has erred in holding that deceased was not a bonafide passenger and the alleged accident does not fall within the ambit of Section 123(C) read with Section 124-A of the 1989 Act. In fact, it stands clearly established from the evidence available on the file that the deceased was a bonafide passenger, particularly when a Railway Train Tickets were found at the time of autopsy. Moreover, the dead body was also found lying on the

railway track. Thus, impugned award is liable to be set aside and claim petition deserves to be allowed.

Per contra, learned counsel for the respondent – Union of India has supported the award by contending that the same is absolutely in consonance with the settled canons of law. None of the claimants has stepped into witness box. Each and every aspect of the matter has been taken into consideration by the Tribunal while arriving at a conclusion that deceased was not a bonafide passenger of the train.

This Court has given an anxious thought to the rival submissions of learned counsel for the parties but does not find any legal weight in the submissions made by learned counsel for the appellants.

Admittedly, none of the appellants – claimants appeared before the Tribunal to depose on oath in order to prove their claim. Even, mother-in-law of deceased, with whom, he was allegedly travelling, has not been examined. She being an eye witness of the incidence would have been the best witness who could depose about the fact of purchasing the tickets and the manner of incident of falling down of Ashok Kumar from the train. Even, her affidavit has also not been placed on record. Moreover, train number, in which Ashok Kumar was travelling, has not been disclosed by the appellants – claimants in their claim application.

On the one hand, appellant – claimant No.1 has stated before GRP that her husband alongwith her mother was going to Jagadhri for some kirya ceremony of mother-in-law of her daughter, on the other hand, in the claim application, she pleaded that her husband was going to Saharanpur. Moreover, mother-in-law was an alleged co-passenger of Ashok Kumar but at no point of time, she came forward to get her statement recorded before the GRP to show that they were bonafide passengers of the alleged train.

Though, two train tickets have been placed on record, which were recovered from the possession of deceased vide fard jamatalashi, but it does not appeal to reason that both of them have purchased separate tickets. In the case of computer generated tickets, only one ticket is issued for as many passengers and no plausible explanation has come-forward as to why two separate tickets were purchased. Moreover, a perusal of the site plan, where the body of deceased was found lying, depicts the place in between the track, which itself falsifies the incident. Had the deceased fallen from the train, his body would have been found on either side of the train and not in between the track. Thus, it has rightly been concluded by the learned Tribunal that it was a case of run over by a train.

In the aforesaid facts and circumstances of the case, this Court is of the considered view that appellants – claimants have miserably failed to prove their case by producing any cogent and convincing evidence. Thus, it is held that deceased was not a bonafide passenger of the train and the alleged incident does not fall within the ambit of Section 123(C) read with Section 124-A of the 1989 Act. No question of law muchless substantial question of law arises in this appeal.

Dismissed with no order as to costs.

September 26, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No

