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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1941 of 2010 (O/M)
Date of decision : 25.4.2017

Rameshwar Dutt and another Appellant (s)

Versus

Union of India Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. V.D. Sharma, Advocate, for the appellants.

Mr. Yogesh Saini, 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)

Deceased Vikash Sharma, unmarried son of Rameshwar Dutt (appellant No. 1 herein), boarded Amarpali Express on 20.1.2007 for journey from Delhi to Kurukshetra. He fell down from the train near Nilokheri yard and sustained serious injuries. The driver of another train No. 5707 informed the Assistant Station Master on duty. The injured was removed with the help of public to the General Hospital, Nilokheri where he was declared brought dead.

In the reply, respondents have taken the stand that the deceased suffered injuries due to his own fault. He fell down from a unknown train and no ticket was found in jamatalashi nor the particulars of the ticket were supplied.

From the pleadings, following issues were framed :-

1. Whether the deceased was a bonafide passenger, as alleged ?

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2. Whether the incident in question is covered within the ambit of Section 123 (c) read with Section 124-A of the Railways Act ?
3. Whether the applicants are the only dependents of the deceased?
4. Relief.

The Tribunal, vide its judgment dated 25.8.2009, dismissed the claim petition holding that the deceased was a ticketless traveller.

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

In order to see whether any ticket was found from the person of the deceased, this Court is to rely upon the personal search memo Ex.-A-1 and Ex.-A-2. It comes out that when the deceased was found lying on the track, he was still alive. However, when he was removed to General Hospital, Nilokheri, he was declared brought dead. From the personal search of the deceased, one mobile phone make Sony Ericson was found and the same was taken into possession by the Government Railway Police. Since the deceased was removed to the hospital with the help of public, the station master supplied every articles, which were found on the person of the deceased, which include a leather purse containing Rs. 261/-, four passport size photographs of the deceased, one old ticket from Delhi Azadpur to Kurukshetra dated 21.10.2006, one visiting card, one resume paper of deceased, one address paper of Jabar Singh Gosain. It goes to show that the said articles were also taken into possession through memo Ex. A-1. However, the ticket was not found. It was not claimed that the deceased was carrying some luggage where the ticket could have been placed. Since no ticket was found and other documents were recovered, therefore, it goes to

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show that the ticket was not lost in the accident. It being so, there is no illegality or infirmity in the findings of the Tribunal that the deceased was a ticketless traveller. Therefore, he was not a bonafide traveller. Consequently, the claim application was rightly dismissed by the Tribunal.

There is no ground to interfere in the judgment of the Tribunal.

Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

25.4.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No