

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.4377 of 2012(O&M)

Date of decision: 15.02.2017

Aya Singh and another

.....Appellants

versus

Union of India

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Surinder Sharma, Advocate for the appellants
Mrs.Abha Rathore, 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?*

Kuldeep Singh, J. (Oral)

This is first appeal against the judgment dated 28.2.2012, passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') vide which, claim application of the appellants was dismissed.

Taran Tarn Singh son of the appellants was working as Accounts Assistant with M/s Jammu Casting Private Limited. On 30.12.2009, he was to go to Vijaypur from Jammu for some official work. He purchased a railway ticket No.M-57030788 from Jammu Tawi railway station at 1521 hours and boarded the train. Due to heavy rush and jerks, he fell down from the train at KM 95/1 and died at the spot.

Railway in the reply has taken the plea that the deceased was not a bonafide passenger. In fact he was not traveling in the train at all.

Deceased was run over by some moving train. The body was cut into two

pieces from abdomen, which is not possible due to fall from the train. From the pleadings, following issues were framed:-

- 1. Whether the deceased was a bonafide passenger?*
- 2. Whether the deceased died under the untoward incident under Section 123(c)(2) Railway Act?*
- 3. Whether the applicants are dependent upon the deceased?*
- 4. Relief.*

The Tribunal after examining the testimony of Sharda Kumar, Chief Loco Inspector (RW1), who was on duty as Loco Pilot on train No.4034 ex-Udhampur to Jalandhar City from 1340 hours onwards and the statement of the Deputy Station Superintendent Sumeer Aima (RW2) concluded that the deceased was walking on the track 1 ½ Kms from the railway station and was got entangled in the train and died at the spot. However, from the personal search of the deceased a ticket recovered from deceased was found to be genuine. Therefore, it was held that the deceased was not bonafide passenger and railway is not liable to pay compensation.

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

The testimony of Sharda Kumar, Chief Loco Inspector shows that he was on duty on the said train. The train reached the Jammu railway station at 1540 hours and started at 1615 hours. When the train reached KM 95/1, one person was found moving along the track and got entangled with the train and was run over by the engine of the train. The train was immediately stopped by applying emergency brakes. However, the said person was cut into two pieces from abdomen by the train. Nirmal Singh guard on duty was duly informed. Constable Surinder Singh of GRP also reached at the spot. Sumeer Aima, Deputy Station Superintendent has also

made a similar statement.

Now, the question would arise that admittedly, the deceased was having a valid journey ticket, which was purchased at 1521 hours. The train had arrived at 1541 hours and was to depart at 1615 hours (4.15 PM) i.e. with a stay of about 35 minutes. Now, further question would arise whether the deceased was travelling in the train and fell from the running train or in the alternative he was trying to board the running train and was run over in that process?

The statement of the Loco Inspector Sharda Kumar shows that the deceased was run over by the engine of the train, which means that he came in front of the engine and was run over. Had it been the position that the deceased was run over by any compartment then there could be some ground to assume that the deceased followed the train for 1 ½ kms in an attempt to board it and resultantly was run over. However, the fact that he was hit by the engine of the train goes to show that he came in front of the train and was cut into two pieces. Such kind of injuries are not possible either due to fall from the train or while even boarding the train. Therefore, this Court does not find any ground to differ with the view taken by the Tribunal that the deceased was not a bona fide passenger of the train even though he was holding a valid journey ticket. It being so, there is no ground to interfere in the impugned judgment.

Consequently, the present appeal fails and is dismissed.

15.02.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
Yes