

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5834 of 2012 (O/M)

Date of decision : 9.5.2017

Sukanti alias Shakuntla

..... Appellant (s)

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S. Rana, Advocate, for the appellant.

Ms. Abha Rathore, 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)

This is first appeal against judgment dated 13.7.2012, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (in short 'the Tribunal') vide which the claim application filed by the applicant-appellant was dismissed.

On 20.8.2009, Het Ram (since deceased) (husband of the applicant-appellant) was travelling from Palwal to Faridabad in EMU train No. GDP/1. He was holder of monthly season ticket No. 55752055. It is stated that due to heavy rush, the deceased fell down from the moving train at about 9:15 am at KM 5109/12-13 near Railway Station Faridabad and died at the spot.

The railway in its reply denied that it is a case of untoward incident. It was stated that the deceased was not a bonafide passenger.

From the pleadings, following issues were framed :-

1. Whether this Bench of the Tribunal has territorial jurisdiction to entertain and try this application ?

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2. Whether the applicants prove that they are the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act ?
3. Whether the applicants prove that the deceased was a bonafide passenger on the train in question on the relevant day ?
4. Whether the applicants also prove that the death of the deceased had occurred as a result of an untoward incident, as alleged in the claim application ?
5. Whether the respondent proves that the claim is not covered under the ambit of Section 123, 124 and 124-A of the Railways Act ?
6. Relief.

Issue No. 1 stands settled as the case was transferred from Delhi Bench to Chandigarh Bench.

The Tribunal came to the conclusion that the deceased did not fall from the train. Rather, he got down from GNP-3 and ran towards platform No. 2 inside the track and was run over by a Ladies Special Train NP-5, coming on platform No. 2. The head of the deceased was chopped off and remaining body did not bear any injury.

I have heard the learned counsels for both the parties and have also carefully gone through the file and the record of the Tribunal as well.

The Tribunal has disbelieved the statement of an eye witness Udaivir, who had stated that the deceased fell down from EMU train GDP/1 due to heavy rush and jerk near Faridabad railway station and died. Admittedly, the deceased was carrying a monthly season ticket, which was recovered from the dead body.

Narinder Kumar, Station Master, Faridabad, has specifically stated that on the day of accident, two EMU local trains GNP-3 and NP-5 came to Faridabad railway station from the same direction. NP-5 came via

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Down Main Line on platform No. 2 and GNP-3 came via third line at platform No. 1. At the time of incident, he was in his room. He heard some noise and came out from the cabin and saw that a dead body was lying under NP-5 EMU train at platform No. 2 just opposite his panel. The memo was prepared on the same day bears the same facts. It is stated that the deceased got down from GNP-3 and ran towards platform No. 2 inside the track and was run over by EMU train and died at the spot. In the DRM report, same findings were recorded.

A perusal of the site plan shows that the dead body was lying on the track at platform No. 2 under NP-5, which is ladies special train. The deceased is stated to have got down at platform No. 1. There is third track between platform No. 1 and platform No. 2. Therefore, even if the deceased falls from the running train, he will fall between track of platform No. 1 and the middle track and not on the third track. The head of the deceased was chopped off, which shows that it is not a case of fall from the train. In these circumstances, I am of the view that the testimony of eye witness Udaivir was rightly disbelieved by the Tribunal. It is a case where the deceased was crossing the railway line unauthorisedly, which itself is a criminal offence. Therefore, the railway was rightly held not to be liable to pay the compensation.

In view of the above, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

9.5.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No