

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 262

FAO No.1280 of 2013(O & M)
Date of Decision: *October 04, 2017*

Vinod Rai @ Vinod Kumar Rai

..... APPELLANT

VERSUS

Union of India

..... RESPONDENT

. . .

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

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PRESENT: - Mr. Ravi Sharma, Advocate, for the appellant.

Mr. Rajeev Sharma, Advocate, for the respondent –
Union of India.

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Jaspal Singh, J

The instant appeal has been preferred against Award dated March 12, 2012 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'Tribunal'), whereby claim petition of the appellant has been dismissed.

The brief facts of the case are that on October 30, 2008, appellant – Vinod Rai @ Vinod Kumar Rai was boarded a train for going to Smastipur from Ambala, by purchasing a ticket. At about 12.30 AM i.e. midnight of October 30, 2008 & October 31, 2008, when the train reached near Jagadhri railway station, appellant fell down on the track due to heavy rush and pushed by other loaded passengers. He received multiple injuries

and both of his legs were badly crushed. He was shifted to General Hospital, Yamuna Nagar, whereafter he was referred to GMCH, Sector 32, Chandigarh, from where, he was further referred to PGI, Chandigarh. He was also treated in Ortho Center, Panchkula.

Appellant filed a claim petition before the Tribunal seeking compensation due to injuries suffered in railway incident. Claim application was contested by the respondent by filing written statement. Replication was filed by the appellant reiterating the averments made in the claim petitioner/application. From the pleadings of parties, issues were framed by the Tribunal and parties led their evidence.

After hearing learned counsel for the parties and perusing the record, Tribunal dismissed the claim application of appellant vide impugned Award dated March 12, 2012.

While assailing the impugned award, learned counsel for the appellant has vehemently argued that Tribunal has not appreciated the facts and evidence in correct perspective. Misreading of facts has resulted into miscarriage of justice. The entire approach of the Tribunal was illegal and contrary to the evidence led by the appellant. Tribunal has ignored the fact that appellant was a bonafide passenger, having a valid ticket at the time of incident wherein he suffered injuries and remained hospitalized.

Per contra, learned counsel for the respondent has supported the findings recorded by the Tribunal. Learned counsel has contended that each and every aspect of the matter has been taken into consideration. The award of the Tribunal is absolutely in consonance with the settled proposition of law.

This Court has given a deep thought to the rival submissions made by learned counsel for the parties and gone through the record available but does not find any legal substance in the submissions made by learned counsel for the appellant.

The case of the appellant is that he suffered injuries at railway station at Jagadhri by falling on the track due to heavy rush and pushes by other passengers but no railway station authority was informed and no station memo was issued. In the claim application, appellant has stated that he was travelling alongwith Sandeep Rai and other friends and was travelling on ticket No.10J09F0275 having it booked from Ambala Cantt. to Samastipur. From the perusal of the ticket, it is clear that it was issued for two adults, however during cross examination of appellant, he testified that they were three persons going together on the date of incident and it was a joint ticket for three persons. Moreover, it is a case of injury and admittedly, appellant was conscious at the time of injury. In the claim application, appellant stated that he got booked the ticket and placed on record an unreserved ticket for two adults, whereas in his cross examination he stated on oath that a common ticket for three persons was purchased. The case of the appellant is that he could not get the berth due to heavy rush in the compartment and decided to stand near the door but while handling/adjusting his bag, near Jagadhri railway station, he got imbalanced due to push by passengers, rolled down out of the door and fell down in the track. In his statement before GRP, he stated that they boarded Jan Naik Express train. His friends managed to board the train and got inside but due to heavy rush he could not board it and hung on the door of the compartment. When the train started and passed about 4/5 kms, his luggage

fell down and he also fell down from the train. He was brought to Jagadhri railway station by the officials of goods train and got admitted in Civil Hospital, Yamuna Nagar. He called his friends who came to Civil Hospital. In his statement before RPF, he reiterated the version of falling down but stated that his friends travelling with him were deboarded at Jagadhri railway station and reached the spot of incident to bring him to Derabassi, from where, his employer got him referred to GMCH, Sector 32/ PGI. It is seen that appellant putforth a different version of the alleged incident and his statement varied at every stage. Moreover, this is not a case of death in an untoward railway incident, in which, appellant has no knowledge as to what exactly happened in the alleged incident. As per his own version, appellant was conscious, even then, he changed his statement before the authorities. Thus, it safely be inferred that no such untoward incident was happened with the appellant and even otherwise, travelling on footsteps/hanging on the door of train is a criminal offence, punishable under the Railways Act. In this view of the matter, this Court is of the opinion that appellant was not a passenger of the alleged train, much less a bonafide passenger at the time of incident and thus, he is not entitled to any compensation from the respondent.

In the light of what has been discussed above, there is no merit in the instant appeal. As such, same is dismissed with no order as to costs.

(Jaspal Singh)
Judge

October 04, 2017
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No