

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 279

FAO No.1465 of 2013 (O & M)
Date of Decision: *November 01, 2017*

Pooja & others

..... APPELLANTS

VERSUS

Union of India

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Jatinder Nagpal, Advocate, for the appellant.

Ms. Abha Rathore, Advocate, for respondent – UOI.

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Jaspal Singh, J

The instant appeal has been preferred by the claimants challenging Award dated August 31, 2012 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (hereinafter, referred to as 'Tribunal'), vide which, claim petition filed by the claimants – appellants has been dismissed.

Widow of Ramesh Kumar alongwith her minor children filed a claim petition before the Tribunal seeking compensation which was contested by the respondent – Union of India submitting that no incident took place in the manner as alleged in the claim application. The alleged incident is not covered under the definition of 'untoward incident' because Ramesh Kumar (deceased) suffered injuries on account of his own

negligence and railway administration is not liable to pay any compensation in terms of Proviso to Section 124-A of the Act. Respondent also denied the factum of Ramesh Kumar to be a bonafide passenger.

After hearing learned counsel for the parties and appreciating the evidence led, claim petition has been dismissed by the Tribunal vide impugned award holding that present case is not a case of untoward incident as defined under Section 123(c)(2) of the Railways Act, 1989 (for short, 'Act').

Learned counsel for the appellants has vehemently argued that impugned award passed by the Tribunal is illegal, against law & fact and being not sustainable in the eyes of law is liable to be set aside. On December 05, 2009, Ramesh Kumar was travelling in train with Ticket No.29699922 from Karnal to Panipat, alongwith his family. The train stopped en-route at Babarpur railway station. Ramesh Kumar got down from the train for urination. However, while boarding the train after urination, he fell down from the train, due to heavy rush and jerk. He sustained multiple injuries and was taken to Civil Hospital where he was declared dead by the doctors. A report roznamcha No.11 dated December 05, 2009 was also lodged in Police Station, GRP, Panipat.

Per contra, learned counsel for the respondent has supported the decision of the Tribunal by contending that infact, Ramesh Kumar was hit by 2029 Shatabdi Express train which was coming through platform No.2 at Babarpur Railway Station from Delhi side and going towards Ambala, when he was sitting on the edge of platform. Learned counsel has contended that such an incident is not an untoward incident as defined under the Act and thus, award passed by the Tribunal is absolutely in consonance with the

This Court has given an anxious thought to the rival submissions made by learned counsel for the parties but find no legal substance in the submissions made by learned counsel for the appellants.

In the case in hand, appellants preferred a claim petition alleging that Ramesh Kumar was travelling in the train alongwith his family. He got down from the train for urination at Babarpur Railway Station. When he was trying to re-board the train, due to rush and jerks, he fell down and sustained injuries, resulting in his death. During evidence, respondent proved DRM's enquiry report wherein it was mentioned that one man struck with 2029 and fell down on plat form at Babarpur station at KM 94/31 and badly injured. He was sent to Civil Hospital, Panipat with S/Wala Gurdayal Singh. The document is further endorsed as 'Dead at C/Hospital, informed by S/Wala'. Author of this document, Radhey Shyam was examined as RW-1, who stated that after departure of train No.2029 Shatabdi, coming from Delhi and going towards Ambala, someone from public informed that a man struck against the said train and fell down on the platform whereupon he gave message to the higher railway authorities. Further, Sunil Tigga, driver of Shatabdi Express Train (2029), in his statement, stated that while he was passing from Railway Station Babarpur, one person who was sitting at the edge of the platform, was hit by the side of train. In this view of the matter, it is clear that Ramesh Kumar (deceased) was sitting at the edge of platform No.2 and he was hit by 2029 Shatabdi Express Train which was passing through Babarpur Railway Station and further that, incident occurred at Platform No.2 whereas the train going from Karnal to Panipat was at Platform No.1. Thus, this Court is of the considered view that incident in the present case is not covered by Section 123(c)(2) of the Act and cannot be

In the light of what has been discussed above, impugned award passed by the Tribunal does not suffer from any infirmity or illegality and thus, no interference by this Court is called for. Finding no merit in the instant appeal, same is dismissed with no order as to costs.

November 01, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No