

211

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1716 of 2013 (O/M)

Date of decision : 15.2.2017

Kiran Devi and others

..... Appellant (s)

Versus

Union of India

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Subhash Sachdeva, Advocate, for,
Mr. S.K. Rana, Advocate, for the appellants.

Mr. Karminder Singh, 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 filed against the judgment dated 20.11.2012, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (in short 'the Tribunal'), vide which the claim application filed by the present appellants, was dismissed.

Gurmit Singh, aged about 26 years, husband of appellant No. 1, father of appellants No. 2 to 4 and son of appellant No. 5, was a labourer by profession. On 14.9.2010, the deceased told his wife that he is going to his sister's house at village Munderpur, Tehsil and District Yamuna Nagar and thereafter in the evening, he would go to other sister's house at Ambala and will stay there at night. It is stated that in the evening, he accompanied by Pammi alias Ravinder Kumar went to railway station Jagadhari Workshop, where he purchased second class ordinary passenger train ticket for Ambala Cantt. He boarded train No. 305. When the train reached between village

FAO No. 1716 of 2013 (O/M)

Dukheri and Ambala Cantt. at night, due to heavy jerk Gurmit Singh fell down from the train and sustained greivous injuries on the vital parts of the body and succumbed thereto on the spot. On the next morning i.e. 15.9.2010, at about 9:14 AM on account of information supplied by Shiv Ram and Ram Kishan, Gangmen, regarding the detection of one dead body lying out at track at KM No. 257/15-17 between Dukheri and Ambala Cantt., the intimation was sent to the SHO, GRP Ambala Cantt. The inquest was carried out. The personal search of the deceased was conducted, from which nothing was recovered. The post mortem was also got conducted.

In the reply, the Railways took the plea that it is not a case of untoward incident within the meaning of Section 123 (c) of the Railways Act, 1989. It was stated that the death had occurred as a result of being run over by train as the said person got entangled with the moving train while crossing the track. The deceased was not a passenger of the train much less bonafide passenger.

From the pleadings, following issues were framed :-

1. Whether the deceased was a bonafide passenger at the time of incident ?
2. Whether the incident is covered within ambit of Section 123 (c) (2) read with Section 124-A of RCT Act ?
3. Whether the applicant (s) is/are the sole dependents of the deceased in this case ?
4. Relief.

After going through the evidence , the Tribunal came to the conclusion that the deceased was not a bonafide passenger and

FAO No. 1716 of 2013 (O/M)

consequently, the claim application was dismissed.

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

First of all, this Court proceed to determine whether it is a case of fall from the train or the deceased was run over by the running train, as sought to be made out from DRM report and the case of respondent.

The inquest report was carried out next morning i.e. 15.9.2010 when the dead body was recovered. The site plan is also drawn on the inquest report, which shows that the dead body was lying just adjoining the upline outside the track. As per the injury described in the inquest report, backside of the head was badly damaged and the brain matter was coming out. The part of both the feet were partly crushed. Both the legs were broken from the knee joint. The railway police came to the conclusion that it is a case of fall from the train. The interim report dated 7.12.2010 of the SHO shows that the police also concluded that it is a case of fall from the train. The injuries are also described in the post mortem report. From the injuries coupled with the conclusion drawn by the GRP, it has to be concluded that it is a case of fall from the train. The injuries mentioned in the inquest report as well as post mortem report are unlikely when one is run over by a train while crossing the railway line. Therefore, the case put forth by respondent that it is a case of run over by a train has to be ruled out and it has to be held that Gurmit Singh died as a result of fall from the train.

The next question arising for consideration is as to whether the deceased was a bonafide passenger.

It comes out that the deceased fell from the train on the night intervening 14.9.2010/15.9.2010. His dead body was recovered in the

FAO No. 1716 of 2013 (O/M)

morning on 15.9.2010 lying on the side of the railway track at a remote place. As per the search memo, nothing was recovered from the pockets of the deceased. I am of the view that since the deceased fell from the train and that nothing was recovered from his person, which usually includes one or the other personal belongings, which a person is suppose to carry with him, goes to show that all the personal belongings of the deceased were lost. It is unlikely that the deceased will travel without any money or some other articles. Since nothing was recovered from his person, ticket is also presumed to be lost as a result of fall from the train.

The learned counsel for Union of India has argued that the father and wife of the deceased have stated in their statement recorded under Section 175 Cr.P.C. that the deceased was mentally upset and was missing for the last 20 days. Sardara Singh, father of the deceased, was examined on that point. In cross examination, he asserted that does not know whether his statement was recorded by police or not, but his thumb impressions was obtained and he does not know what was written therein. The wife of the deceased was not examined. Therefore, bare statement under Section 175 Cr.P.C. before the GRP cannot be taken as a gospel truth. Infact, the facts and circumstances show that when the dead body was recovered on 15.9.2010, the family of the deceased was informed by the police as the name of the deceased which was otherwise not known to GRP, finds mention in the inquest report prepared on 15.9.2010 itself. Therefore, the findings of Tribunal in this regard are liable to be reversed.

In view of the foregoing discussion, the findings recorded by the Tribunal on all the issues are reversed. The appeal is allowed. Respondent-railways is ordered to pay Rs. 4,00,000/- as compensation to

FAO No. 1716 of 2013 (O/M)

the applicant with interest at the rate of 9% per annum from the date of filing of the claim appliaction i.e. 8.3.2011 till the date of payment.

(KULDIP SINGH)
JUDGE

15.2.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes