Sanjiv Kumar Sharma
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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2910 of 2013 (O/M)
Date of decision : 16.2.2017

Sunil Kumar and others ..... Appellants

Versus

Union of India ..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Somesh Gupta, Advocate, for the appellants.
Mr. Sandeep Vermani, 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 the first appeal filed against the judgment dated 4.3.2013, 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.

On 19.2.2011, Gopi Ram (since deceased) was to going to Sri Gangagnagar from Siwani. On the way, he was required to change the train at Sadalpur railway station to get the train for Sri Ganganagar. After purchasing the train ticket, he reached the platform. As soon as he reached near the train, the train started moving, although he caught the handle of the train, but he could not properly put his foot on the steps and slipped and fell down between the platform and track and died at the spot.

In the written statement, the railways denied the claim stating that the story put forth by the claimants is unbelivable. Even as per the story, it is self inflicted injury and a negligent act of the deceased. There

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was no eye witness of the occurrence. It was also claimed that the deceased was not a bonafide passenger as the ticket was not found from the personal search of the deceased.

From the pleadings, following issues were framed :-

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

The Tribunal after going through the evidence came to the conclusion that no ticket was recovered from the deceased. Therefore, the story of the appellants that the deceased fell between the platform and track while boarding the train was also disbelieved on account of the fact that the dead body was found in the railway yard near the loop line. 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 is to examine whether the deceased was a bonafide passenger ? The affidavit of Sunil Kumar son of the deceased does not state that his father had purchased the ticket in his presence. The site plan shows that the dead body was recovered near the loop line where the platform ends. The personal search memo shows that when the search of the dead body was conducted, currency notes of Rs. 1325/-, one mobile phone in working condition and one gold ring was recovered. The body of the deceased was not mutilated as coming out from the post mortem report. Therefore, if these articles could be found, there is no reason why the ticket could not be found. In these circumstances, there is no illegality or infirmity in the finding recorded by the Tribunal that the deceased was a

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2017.02.21 16:31
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ticketless passenger even if it is assumed that he was travelling in the train. Therefore, he was not a bonafide passenger.

Secondly, the case of the appellants is that the deceased while boarding the train slipped and fell between the platform and track. However, the site plan does not support the case of the appellants. In the site plan, the dead body was found lying near the loop line where the platform ends and the railway yard starts. Therefore, it is not a case where the deceased while trying to board the train slipped and fell between the platform and the track. Therefore, the story of the appellants was rightly disbelieved by the Tribunal.

So far as the injuries are concerned, it shows that there were bruises on both the knee joint, lacerated wound over thigh, contusions on the lower abdomen and injury on the head with fracture on the skull exposing the brain matter. The injuries do give an indication that against the story of the appellants, the facts appear to be that the deceased had infact boarded the train and near the loop line, he fell from the running train and received said injuries. The said injuries cannot be caused when one is hit by a train while crossing the railway line. Even if, it is assumed that the appellants failed to mention the correct facts in the affidavit, even then the fact remains that the deceased was not a bonafide passenger. Therefore, there is no illegality or infirmity in the impugned judgment of the Tribunal, refusing the compensation. Accordingly, the appeal is dismissed.

(KULDIP SINGH)
JUDGE

16.2.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No