

208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4606 of 2014 (O/M)
Date of decision : 12.1.2017

Jagbiri and another Appellant (s)

Versus

Union of India Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Sunita Nambiar, Advocate, for,
Mr. Balkar Singh, 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 an appeal against the judgment dated 22.1.2014, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (in short 'the Tribunal') vide which the claim application of the applicants-appellants was dismissed.

On 2.11.2011, one Satbir son of Sukhbir was stated to be coming from New Delhi to Balabharh on EMU train. He is stated to have purchased a journey ticket. Due to heavy rush in the train, he was standing on the rear side of the door of the local train. Suddenly, due to heavy jerk, the deceased fell down from the running train between Faridabad and New Faridabad railway stations and died. The ticket is stated to have been lost in the accident.

In the reply, the railways has taken the plea that the deceased was not a bona fide passenger. He was not travelling in the train on the day

FAO No. 4606 of 2014 (O/M)

of incidence. He even failed to mention the ticket number or train number in which he was travelling.

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 the Railways Act ?
3. Whether the applicant (s) is/are the sole dependants of the deceased in this case ?
4. Relief.

The Tribunal came to the conclusion that the deceased was not a bonafide passenger and consequently the claim application was dismissed.

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

First of all, it is required to be examined whether the deceased was crossing the railway line or fell from the train ? For this purpose, the appellants have not examined any eye witness, who saw the deceased travelling in the said train or falling from the said train. The place of incident is Neelam Flyover. Therefore, this Court is to fall back upon the post mortem report to see the nature of injuries to guess out whether it is a case of fall from the train or the deceased was crossing the railway line and was hit by a train. In the post mortem report, following injuries were found :-

“Muscles, Bones and Joints

Injury, disease or deformity.

Fracture or dislocation INJURIES : 1. 3X1” LACERATED
WOUND COVERING CENTRAL PARIETAL REGION

FAO No. 4606 of 2014 (O/M)

GOING LEFT SIDE COVERING PARIETAL AND TEMPORAL REGION, BONE DEEP ON FURTHER DISSECTION MULTIPLE SAH SOHAN EDH PRESENT. CLOTTED BLOOD PRESENT.

2. 5X1" LACERATED WOUND OVER RIGHT ELBOW FLEXOR ASPECT GOING LATERALY

3. RIGHT SHOULDER FRACTURE AND 1-6TH RIGHT SIDE RIBS FOUND FRACTURED

4. MULTIPLE ABRASIONS OF VARIOUS SIZES PRESENT ALL OVER THE BODY."

The above injuries suggest that the deceased most probably fell from the train that is why he received head injury and fracture on the right shoulder. The inquest report of the GRP, which made the investigation into the case, also reported in the inquest report that the deceased fell from the train. Therefore, it has to be concluded that the deceased was travelling in the train and fell from the train.

The next question would arise whether the deceased was a bonafide passenger and was travelling with a valid ticket or was a ticketless traveller? The appellants have not produced any evidence to show whether somebody saw the deceased purchasing the ticket or the deceased was having a seasonal pass, issued by the railways.

The learned proxy counsel appearing for the learned counsel for the appellants has argued that due to fall from the train, the ticket might have lost. For this purpose, one has to fall back on the condition of the body and other recovery effected from the person of deceased. The inquest report does not show that the clothes of the deceased were torn or some articles were lost due to fall from the train. The recovery memo (Ex.A9) shows that when the personal search of the deceased was conducted, one photocopy of the driving licence, one paper on which some mobile numbers

FAO No. 4606 of 2014 (O/M)

were written and a currency note of Rs. 5 were recovered from the pocket of the deceased. If these papers could be recovered from the pocket of the deceased, certainly the ticket could also be there. Therefore, the plea of the appellants that the ticket was lost due to accident cannot be accepted in these facts and circumstances.

In view of the above, this Court is agreed with the finding recorded by the Tribunal that the deceased was not a bonafide passenger. Consequently, the railways is not responsible to pay the compensation to the applicants-appellants. Consequently, I do not find any merit in the present appeal and the same is dismissed.

(KULDIP SINGH)
JUDGE

12.1.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes