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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5309 of 2013 (O/M)
Date of decision : 24.1.2017

Union of India

..... Appellant (s)

Versus

Anil Deswal

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Nitin Kumar, Advocate, for the appellant.

Mr. Somesh Gupta, 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)

Heard.

This is an appeal filed by the Union of India against the judgment dated 16.5.2013, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal'), vide which on account of amputation of both the legs above knee, a compensation of Rs. 4,00,000/- was awarded to respondent/applicant alongwith simple interest @ 6% per annum from date of this claim application i.e. 4.1.2012 till the date of this order i.e. 16.5.2013.

As per the case of the applicant, he was working as a Production Manager in the private company at Ambala Cantt. On 25.7.2011, the applicant purchased a train ticket ex. Panipat to Ambala Cantt. for Rs. 44/- and boarded Swaraj Express train. When the train reached Ambala Cantt., he came near the gate of the train and put his bag on

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one side. The train took a jerk, as a result of which he fell down from the train. His both the legs were badly crushed and other injuries were suffered by him. He was ultimately removed to Fortis Hospital, Mohali, where his both the legs above the knee were amputated. His ticket was lost in the said incident.

The Tribunal recorded the finding that the ticket was lost in the incident. It was also found that there was a long journey from Panipat to Ambala Cantt. and no ticketless traveller was found. Therefore, the story of loss of ticket was believed and a compensation was awarded.

The learned counsel for the appellant has argued that the passenger could not produce the ticket. He also could not correctly remember the name of the train and the Swaraj Express had passed earlier through the said line.

I am of the view that there are no merits in the present appeal. The ticket in the present case was in the front pocket of the shirt of the passenger. When he fell from the running train and his both the legs above knee were badly crushed, in this process the possibility of slipping of the ticket from the front pocket of the shirt of the passenger and being lost is there. The status of the applicant also shows that he was a production manager in the private company. Therefore, his background also indicates that it is unlikely that he will travel ticketless and will not pay a sum of Rs. 44/-, which is required to be paid for the ticket. Therefore, the findings of the Tribunal in this regard are affirmed.

So far as not remembering the correct name of the train is concerned, it is not the case of the railways that the applicant was not run over by the train. The applicant was run over by the train belonging to

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the railways. When both the legs of the applicant above knee were badly crushed and there was heavy bleeding and he was removed to hospital where his both the legs were amputated above knee, the applicant must be under great physical pain and mental stress, affecting his memory. Therefore, even if the train name is mentioned wrongly by the applicant, it hardly matters. Thus, there is no illegality or infirmity in the impugned judgment. Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

24.1.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes