

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-7276-2015 (O&M)
Date of decision: 12.05.2017

Lakshmi

.....Appellant

versus

Union of India

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.K.Rana, Advocate for the appellant
Mr.Vikas Chatrath, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

This is first appeal against the judgment dated 3.8.2015 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal'), vide which, claim application filed by the applicant/ appellant was dismissed.

Facts of the case as coming out from the evidence are that Sonu @ Harish Kumar was running a shop near Railway Station, Karnal. On 25.12.2011, he is stated to have purchased a ticket from Karnal to Ambala to see his wife, who, as per her address, was living at Ambala. He is stated to have boarded the train No.64543 UP from Railway Station, Karnal. It is claimed that due to huge crowd and due to jerk, he slipped from the train. He was dragged to the distance of 15-20 feet and thereafter, fell under the train and was seriously injured. It also comes out that Station Master Sanjay Sexana was informed by some passenger that one injured is lying at platform No.2. Therefore, he called Ambulance and the injured was

removed to Tagore Hospital by his relatives, where he succumbed to the injuries. As per the Station Master, train is having a scheduled two minutes halt at railway station, Karnal. The police carried out the inquest report. Nothing was recovered from the personal search of the deceased.

In the reply, the railway has taken a stand that the deceased was not a bona fide passenger and that the said incident does not fall within the purview of untoward incident involving the railway. Further stand was taken that the injured might have got entangled with the moving train.

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 dependents of the deceased in this case?*
- 4. Relief.*

The Tribunal after examining the evidence dismissed the application.

I have heard learned counsel for both the parties and have also carefully perused the record.

First of all, this Court is to examine as to whether the injuries were caused in the incident involving the railway or not?

This can be made out from the inquest report as well as nature of the injuries. After the incident was informed by the Tagore Hospital, Karnal vide intimation Annexure R4, General Reserve Police reached the said hospital. It was noted that left arm of deceased was found chopped off, left leg from the thigh was found crushed but hanging with the body. There were bruises and contusions on the knees and other parts of the body. The

railway police has opined in column no.12 of the inquest report that death appears to be the result of run over by a train. Therefore, nature of injuries as well as opinion of the GRP shows that the deceased was run over by a train. As per statement of Sanjay Sexana, he had called the ambulance and injured was removed to the hospital by his relatives. The hospital in this case is a Tagore Hospital, Karnal, which is a private hospital, which indicates that the relatives of the deceased were available around the deceased when the said incident took place. In this case, except the statement of the applicant herself, eye witness Raj Kumar (uncle of the deceased) did not appear in the witness box. Therefore, this Court is left to determine from the available evidence as to whether it is untoward incident involving the railway and whether the deceased was a bona fide passenger.

As discussed above, nature of the injuries shows that the deceased was run over by the train and probably, dragged to some distance as indicated from the bruises and contusions over the entire body and the knees. This is indicative of the fact that the deceased probably while in the process of boarding train or after boarding the train fell down from the train and when train left the station he was lying in the injured condition and removed to platform no.2. Therefore, it is an untoward incident involving the railway.

Statement of the applicant shows that the deceased was aged about 38 years, which is also coming out from the post-mortem report. The deceased was young man, his wife was living at Ambala. He was having a shop at Karnal and it appears that he was going to Ambala to meet his wife. Therefore, it is unlikely that the shopkeeper while travelling in the train will not carry wallet, handkerchief and some other papers with him. In this case,

nothing was recovered from the person of the deceased. According to his wife, the bag carried by him was lost. In these circumstances when the injured was removed by somebody to platform no.2, there is every possibility that his entire belongings were either lost while he fell down from the train or these were lost during incident. Therefore, non-recovery of the ticket itself is no ground to conclude that the deceased did not purchase any ticket. The possibility of loss of ticket is there. In these circumstances, it cannot be said that the deceased was ticket less passenger.

From the foregoing discussion, I come to the conclusion that the deceased was the bona fide passenger and he died in an untoward incident involving railway. Hence, the appeal is allowed. Impugned judgment dated 3.8.2015 is set aside. The respondent is directed to pay Rs. Four lacs compensation to the applicant/ appellant along with interest @ 9% per annum from the date of filing of claim application i.e. 22.8.2012 till the date of actual payment.

12.05.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No