

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 204

FAO No.2541 of 2010 (O & M)
Date of Decision: May 03, 2018

Faquir Chand & another

..... APPELLANTS

VERSUS

Union of India & another

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. Harminderjeet Singh, Advocate, for the appellant.

Mr. Yogesh Saini, Advocate, for respondent No.1 –
Union of India.

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Jaspal Singh, J

Through the instant first appeal, claimant Nos.1 and 2 – appellants have challenged award/order dated July 24, 2009 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, 'RCT'), whereby claim petition/application filed by them, seeking compensation of ₹ 5 lac on account of death of their son Karan Singh, in a train untoward incident, has been dismissed.

Assailing the impugned award dated July 24, 2009, it has been vehemently argued by learned counsel for the appellants has vehemently argued that misreading and misinterpreting of evidence has resulted into miscarriage of justice. RCT has not considered the evidence

placed on record. Even there is no evidence of respondent contradicting the evidence of appellants. Claim application of the appellants has been wrongly dismissed on the ground that there was no cogent evidence and their evidence has been discarded and disbelieved by the learned Tribunal without assigning any cogent reason. Learned counsel has further submitted that RCT has ignored the fact that there was direct evidence to establish Karan Singh's death at Chandigarh Railway Station when he was trying to board the train on April 21, 2006 and is covered in the definition of an "untoward incident". As such, RCT has taken a wrong and erroneous view while dismissing the claim application. Thus, same is liable to be set aside and appellants are entitled to adequate and proper compensation.

Per contra, learned counsel for the respondent – Union of India, has supported the impugned award/order by submitting that it has been passed absolutely in consonance with the legal proposition as well as evidence available on record. Each and every aspect of the case has been taken into consideration but finding that claimants have failed to establish the death of Karan Singh occurred in an "untoward incident", RCT has rightly dismissed the claim application.

This Court has given an anxious thought to the rival submissions of learned counsel for the parties and gone through the record available but does not find any legal or factual substance in the submission of learned counsel for the appellants.

The case of appellants is that their son Karan Singh alongwith his wife had purchased rail journey ticket No.74513319 from Railway Station, Chandigarh for going to Bhiwani. Though, Karan Singh boarded the train but due to heavy rush of passengers and as a consequent of

jerk, he fell down and his chest struck with the steps of compartment of train and he got crushed under the feet of other passengers, due to which, he suffered internal injuries and complained of pain in chest. His wife informed TTE on duty, who assured that Karan Singh will be provided medical aid on the next station but no help was given. On reaching Bhiwani, Karan Singh was got admitted in the Civil Hospital, with the help of his wife and other passengers. Unfortunately, on check-up, the doctor declared him dead. It is the case of the appellants that Karan Singh died in untoward incident as Railway Administration failed to provide medical aid at proper time.

A claim petition was filed by parents of Karan Singh alongwith his wife and it was contested by the respondent submitting that alleged incident does not fall under the provisions of Section 123(c) read with Section 124-A of the Railways Act, 1989 (for short, 'Act'). Karan Singh suffered injuries due to his own negligence. No information was received by Railway Administration and GRPF regarding the alleged incident. Even, in post mortem report, cause of death of Karan Singh has been opined to be Asthma Attack. Even, he was not a bonafide passenger and the alleged ticket is a procured one.

After hearing learned counsel for the parties and appreciating the evidence on record, claim application filed by the claimants – appellants has been dismissed by the RCT vide the impugned award/order holding that death of Karan Singh is not caused in an untoward incident.

As far as question of Karan Singh being bonafide passenger is concerned, RCT has rightly observed that he was a bonafide passenger since Ticket No.74513319 dated April 21, 2006 (at 4' O Clock) was issued from Chandigarh to Bhiwani.

As far as the question of death of Karan Singh in untoward incident is concerned, first page of PMR (Ex.A-1) reveals that his death was caused due to asthmatic attack. Moreover, there was no injury mark on his body. Further, it was mentioned in the PMR that cause of death can be ascertained only on receiving pathological report. Perusal of Pathological report (Ex.A-2) depicted that on representative microaspiration examination of different parts of the heart, no pathologic significant change has been found. In this view of the matter, it can be safely presumed that Karan Singh suffered asthmatic attack in natural course. Moreover, his father Faquir Chand, appellant No.1, during his cross – examination admitted that his son would have suffered asthmatic attack due to which he would have been admitted in Hospital at Bhiwani and died finally. Thus, this Court is of the considered view that RCT has rightly concluded that applicants have totally failed to prove that death of Karan Singh has been caused in untoward incident as defined in Section 123(c) of the Act. As such, impugned award/order does not suffer from any illegality or irregularity.

In the light of aforesaid discussion, instant appeal being devoid of merit is dismissed with no order as to costs.

May 03, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No