

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 202

FAO No.5866 of 2010 (O & M)
Date of Decision: May 15, 2018

Anil Wadhwa

..... APPELLANT

VERSUS

Union of India

..... RESPONDENT

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Mr. Sanjeev Sharma, Advocate, for the appellant.

Ms. Kulwant Kaur Kahlon, Advocate, for the respondent.

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Jaspal Singh, J

The instant first appeal has been preferred by claimant – Anil Wadhwa through his mother Veena Rani for enhancement of compensation awarded vide Award/order dated April 30, 2010 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, 'RCT'), whereby claim petition/application filed by the claimant has been allowed and an amount of ₹ 80,000/- has been awarded alongwith simple interest @ 9% per annum from the date of filing of application till realization.

Learned counsel for the appellant has vehemently contended that evidence on record has been misconstrued, mislead and misapplied to

the facts of the case, resulting in material prejudice to appellant. Keeping in view the fact that injured is in unconscious state (comma) due to injuries sustained in an untoward railway incident, future growth prospects, amount spent on his treatment being more than ₹ 4 lac, the amount of compensation as awarded by the RCT is on much lower side and is liable to be enhanced

This Court has given a deep thought to the aforesaid submissions of learned counsel for the appellant and scanned the record available but does not find any legal and factual substance therein.

Undisputably, on June 03, 2006, appellant – claimant, sustained injuries disability in an untoward incident by falling down from train when he gone for nature call while travelling in Train alongwith his friend Vikas, from Allahabad to New Delhi. As per the averments in claim application, he suffered fracture of right frontal with contusion with diffuse axonal injury and is still on RT feeding and condom catheter.

Injured being minor, filed a claim petition/application through his mother Veena Rani claiming compensation. Respondent contested the claim petition and denied the factum of accident. It was pleaded that alleged incident did not take place with the train in the manner mentioned by the applicant and story is concocted one and false, and the applicant was not a bonafide passenger.

After hearing learned counsel for the parties and perusing the documents available on record, claim application has been allowed by the RCT vide impugned award/order, in the manner detailed above.

In the case in hand, injured is in continuous coma/treatment (as on October 12, 2009), there was no question for conducting jamatalashi in such a situation. Since he was travelling with his friend Vikas, it can

safely be presumed that ticket was taken by him viz. Ticket No.60474453 2nd class super fast ex. Allahabad to New Delhi dated June 03, 2006. Even, respondent has failed to produce any proof before the RCT, contrary to the fact that ticket was not valid for the journey. Thus, RCT has rightly observed that appellant – injured was a bonafide passenger.

It is pertinent to mention here that claimant, while travelling in the train, fell down due to heavy jerk while washing his hands after a nature call. Therefore, alleged incident does fall under Section 124-A of the Railways Act, 1989 (for short, 'Act'), that too, when the respondent failed to produce any evidence that incident did not take place. In this view of the matter, this Court is of the considered view that it was a simple case of accidental fall from the train and the matter is covered by Section 123(c)(2) of the Act.

In the case of injuries, compensation is regulated on the basis of scheduled injuries and non-scheduled injuries. In the case in hand, claimant – appellant suffered injuries FUC of right frontal # with contusion with defuses axonal injury and is still on RT feeding and condom catheter. In this regard, RCT has rightly observed that aforesaid injury is not a scheduled injury in the schedule attached to the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990 (for short, 'Rules') and thus, is a non-scheduled injury, for which, maximum amount of ₹ 80,000/- has been prescribed.

As per the provisions of the aforesaid Rules, in the case in hand, the injured claimant – appellant has been awarded the compensation to the tune of ₹ 80,000/-. Moreover, interest @ 9% per annum has been awarded. The amount of compensation of ₹ 80,000/- together with interest @ 9% per

annum, cannot be termed to be on lower side. Even, counsel for the appellant has failed to show that on the date of passing of award, rate of interest was prevalent on higher side than the rate of interest granted. As far as enhancement of compensation is concerned, there is no provision for enhancement in the relevant Act/Rules, application to the Railways.

In the light of aforesaid discussion, there is no merit in the instant appeal and same is dismissed with no order as to costs.

May 15, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No