

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 203

FAO No.6251 of 2013 (O & M)
Date of Decision: March 26, 2018

Sunita & others

..... APPELLANTS

VERSUS

Union of India

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Rakesh Kumar Sharma, Advocate, for the appellants.

Mr. Sanyam Malhotra, Advocate, for the respondent –
Union of India.

. . .

Jaspal Singh, J

Through the instant first appeal, claimant Nos.1 and 2 – appellants have challenged award/order dated May 14, 2013 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 Hari Ram, husband of appellant No.1, in a train accident, has been dismissed.

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. Claim application of the appellants has been wrongly dismissed on the ground that

deceased was not a bonafide passenger and had not purchased a ticket, and had not died due to negligence on the part of Railway but died while crossing the railway lines unauthorizedly. Impugned order passed by the RCT is illegal, erroneous and unlawful, as such, 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. Each and every aspect of the case has been taken into consideration. There no fault in the impugned order and deserves to be upheld.

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 Hari Ram husband of appellant No.1 was serving in Haryana IRB as a Constable and was posted at Jammu. He was on leave. On September 14, 2010, he had gone to Delhi by train for some work. When he did not turn back, family members enquired from GRP/Ballabhgarh, on which, they were informed that one person fell down from running train on September 15, 2010, between Ballabhgarh and Aswati Railway Stations. They were shown the clothes and photographs, on which, they identified Hari Ram. GRP conducted proceedings and cremation of dead body was made by Sanstha. In fard jamatalashi, nothing was recovered from the person of deceased.

Family members of the deceased preferred a claim petition.

It is the case of claimants – appellants that Hari Ram fell down from train

No.NP-4 at about 9:30 AM at km 1492/9-7 near Aswati Railway Station and he had purchased a ticket from New Delhi to Aswati but the same was lost/misplaced due to rail accident. The claim petition was contested by the respondent.

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 applicants have failed to establish their case and are not entitled to receive any compensation from the respondent – Railways.

Admittedly, no train ticket was recovered from the person of deceased as per Fard Jamatalashi by GRP. No family member was travelling with Hari Ram. Though, in the affidavit of widow of Hari Ram, there is a mention of one Dharambir, who saw the incident and told her about alleged accident that it took place in his presence near Aswati Railway Station by EMU Train No.NP-4, New Delhi – Palwal, September 15, 2010. Strangely, said Dharambir was not examined. Moreover, it is on record that said Train No.NP-4 arrived at 1013 hours and departed at 1014 hours at Aswati Railway Station whereas the alleged incident occurred before 800 hours in the morning. Moreover, in affidavit of RW-2, B.K. Singh, Head Constable, Incharge RPF/Out Post, Palwal, he affirmed that no railway ticket was recovered during 'Jamatalashi'. He further deposed that Hari Ram was crossing the railway lines unauthorizedly, and during the said process, he was struck by some unknown train and died on the spot. The said witness was not subjected to any cross examination by the claimants. Hence his statement has gone un rebutted. Evidence of RW-3 was also based on record regularly maintained at the Railway Station. He brought original record of

Aswati Railway station, according to which, Hari Ram was a trespasser who was crossing railway lines unauthorizedly and struck with some unknown train and died at the spot. Even, matter was further investigated by Inspector, RPF who submitted his report and filed an affidavit clearly deposing that no ticket was recovered from the person of deceased and he was crossing the railway track unauthorizedly and got struck with some unknown train. He was not travelling in any train as a bonafide passenger.

From the above discussion, RCT rightly held that the alleged incident did not fall within the four corners of definition of “an untoward incident” as reflected in Section 123(c) of the Railways Act, 1989 and as such, claim petition was not maintainable. Consequently, appellants were rightly held not entitled to any compensation under Section 124-A of the Act. Since, impugned award/order does not suffer from any illegality or irregularity, it stands affirmed and instant appeal being devoid of merit is dismissed but with no order as to costs.

March 26, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No