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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

267

FAO-7110-2016
Date of decision : 18.07.2024

Gurdev Singh Appellant

versus

Union of India Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Atul Bhatia, Advocate
for the appellant.

Ms. Gurneet Sagoo, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. This is an appeal preferred by the claimant against award passed by Railway Claims Tribunal dated 04.03.2016.
2. As per the case of the claimant on 28.07.2013, he alongwith his wife Shanti, his uncle Sukhdev and his Aunt Satnam Kaur were coming from New Delhi to Panipat and boarded last passenger train. When the train reached near Rathdana, on account of sudden jerk, the claimant fell down from the train in which he insured his foot and back. The injured was referred to PGI, Rohtak. The claim petition was resisted by the railway on the ground that the appellant was not a bonafide passenger as ticket was not found and thus was not entitled to maintain the claim petition. On the basis of pleadings following issues were framed by the Tribunal:-

“1. Whether the deceased was a legal and bonafide passenger of train on the day of incident as alleged?

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2. Whether the alleged incident came under the language of Section 123-C, 124-A read with Section 16 of the Railway Act?
3. Whether the dependents/applicants are actually the dependents of the deceased?
4. Relief.”

3. While returning findings on issue No.1 and 2, Tribunal found that initial version of the accident was recorded in the report of the Station Superintendent, Rathdana. The statement of Station Superintendent, Rathdana Sunil Kumar was relied upon wherein it was specifically stated that on being confronted, the injured stated that he could not purchase the ticket and was not having a ticket. On the aforesaid ground, the claim petition stands rejected.

4. Counsel for the appellant while assailing the impugned order passed by the Tribunal submits that even if it is held that the appellant does not fall within the definition as contemplated under Section 2(29) of the Railways Act 1989, he will certainly fall within the explanation appended to provision as contained under Section 144-A of the 1989 Act as per which even the valid platform ticket entitles the person to be a passenger. Further reliance upon ***Union of India vs. Rina Devi 2018 AIR (SC) 2362*** to submit that mere absence of ticket will not be enough to hold that the passenger was not a bonafide passenger when he has discharged initial burden by filing affidavit of the relevant facts and burden will thereafter shift on railways to show the attending circumstances. He further submits that the statement given by the claimant to the railway police will not even be admissible in evidence and further submits that railway authorities had no power to search the

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person, it is only GRP who had the power to do so.

5. *Per contra*, counsel representing Union of India submits that it is evident from the memo recorded by the Station Superintendent that the claimant was specifically asked for ticket and he specifically unambiguously stated that he could not purchase the ticket. Thus, no fault can be found with the order passed by the Tribunal.

6. I have heard counsel for the parties and have carefully gone through the records of the case.

7. In the considered opinion of this Court, the reliance placed upon ratio of law laid down in the case of ***Rina Devi (supra)*** is misplaced. The operative part of the judgment reads as under:

“17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.”

8. The ratio of law addresses the situation wherein a ticket has been lost by the passenger and he files an affidavit before the Tribunal that in fact he purchased the ticket but lost by spelling out the circumstances in which the same was lost. In the present case, the

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memo of Station Superintendent specifically recorded that when the applicant was asked for ticket, he specifically stated the he could not purchase the same and was not in possession thereof.

9. In view of above, this Court finds that the argument raised by the counsel for the appellant sans merit and deserves to be rejected.

10. In order to appreciate the plea with respect to invoking Section 124-A of the Act, it will be apt to peruse the bare provision which reads as under:-

“124A. Compensation on account of untoward incidents.

When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident.

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to-

- (a) suicide or attempted suicide by him;
- (b) self-inflicted injury;
- (c) his own criminal act;
- (d) any act committed by him in a state of intoxication or insanity;
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.- For the purposes of this section, "passenger" includes-

- (i) a railway servant on duty; and
- (ii) a person who has purchased a valid ticket for

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traveling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.]”

11. Even under Section 124-A, the explanation provides that for the purpose of the provision, the passenger shall include:-

- (i) Railway servant on duty;
- (ii) The person who has purchased the valid ticket for travel or a valid platform ticket.

12. The appellant being not in possession of either of the two, this Court does not find any infirmity in the award passed by the Tribunal. Resultantly, the same is dismissed.

(PANKAJ JAIN)
JUDGE

18.07.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No