
(2009) 03 CAL CK 0046
In the Calcutta High Court
Case No : F.M.A.T. No. 588 of 2008

Ajoy Raut

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 13-03-2009

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 16

Citation : (2009) 03 CAL CK 0046

Hon'ble Judges : Tapan Kumar Dutt, J; Bhaskar Bhattacharya, J

Bench : Division Bench

Advocate : Parimal Kumar Dwari and Kazi M. Rahaman, for the Appellant;
Soumendra Nath Das, for the Respondent

Final Decision : Dismissed

Judgement

Bhaskar Bhattacharya, J.—This first appeal is at the instance of a claimant u/s 16 of the Railway Claims Tribunal Act, 1987 and is directed against an award dated 20th February, 2008 passed by the Vice-Chairman, Railway Claims Tribunal, Kolkata Bench, thereby rejecting the said application.

2. Being dissatisfied, the claimant has come up with the present appeal. The appellant before us filed an application u/s 16 of the Railway Claims Tribunal Act, 1987 thereby claiming a sum of Rs. 4,00,000/- as compensation for the death of his son, late Kartik Rout, on the allegation that on 7th April, 2005 the said Kartik, a student of class-VIII of Amar Bharti High School, was travelling from Konnagar to Howrah by Down Katwa Local train with a valid second class ticket to appear at the final examination of the school along with his classmate, namely, Ranjit Prasad, son of Shri Shiv Prasad of 185/314, Rajiv Gandhi Road, Konnagar, but before reaching Howrah railway station, the said Kartik accidentally fell down from the running train and succumbed to his injuries.

3. The claim was opposed by the railway authority by filing written statement thereby denying the material allegations made in the application. According to

the railway authority, no specific time of incident or no specific reason for falling down from the running train had been described in the clause No. 6 of the application. It was further pointed out that the report of GRP, Howrah, indicated that one unknown injured male person aged about 18 years was recovered from Down Katwa Local train at platform No. 2 and was declared dead by the Senior D.M.P., Howrah. Therefore, according to the railway authority, the case was not one of falling down from train and the incident did not come within the meaning of "untoward incident" and as such, the railway administration was not liable to pay any compensation for the alleged accident. At the time of hearing, the claimant and Ranjit Prasad, the alleged classmate of the deceased and the eyewitness to the incident, gave evidence in support of the claim but no person came forward to depose on behalf of the railway authority.

4. As pointed out earlier, the learned Vice-Chairman of the Railway Claims Tribunal by the award impugned herein dismissed the application on the ground that the claimant failed to prove the alleged accident.

5. After hearing the learned Counsel for the parties and after going through the materials on record, we find that the deceased was described as a student of class-VIII of Amar Bharti High School and was also described as aged 14 years in paragraph 6 of the claim-application. It was stated that on 7th April, 2005, Kartik was travelling from Konnagar to Howrah by Down Katwa Local with a valid second class ticket for giving school annual examination with his friend Ranjit Prasad and during the course of such travel, accidentally, he fell down from the running train and died. It was stated that he had fallen down near Howrah railway station.

6. The claimant, in paragraph 2 of his affidavit, in support of the claim application dated 9th October, 2007 specifically stated that on 7th April, 2005, Kartik Rout, a student of class-VIII, was coming from Konnagar to Howrah to appear at the final examination with his "classmate" Ranjit Prasad. In cross-examination, he admitted that he was not aware of the said accident and he had no paper to show that his son was a student of Amar Bharti High School or he was appearing in the final examination in that school. Ranjit Prasad, in his affidavit-in-chief, stated that on 7th April, 2005 he along with Kartik Rout purchased separate tickets from Konnagar railway station to travel Howrah to appear at the examination. He stated that he was supposed to appear in Board examination and Kartik Rout was supposed to appear in final examination of class-VIII. Therefore, the evidence of the claimant that Ranjit Prasad was a classmate of Kartik Rout was not correct. According to Ranjit, Kartik accidentally fell down from the running train due to sudden jerk and "overcrowded pressure". According to him, at that time he did not make any enquiry as he had to appear in the final examination of the Board and he requested one Sanjit Shaw of their locality to inform the family members of Kartik. In his cross-examination, he has, however, admitted that he had no paper to show that he had really appeared in the final examination at the relevant time. He further admitted that the admit

card or the roll number etc. which could be shown as a proof of his appearing in the final examination of Madhyamik was not available with him at that time. He has further stated that Kartik had also come with him for appearing in class-VIII examination. He further admitted that he could not show any paper in support of his claim that Kartik was appearing in the class-VIII examination. According to him, after Kartik had fallen down the train did not stop and it came to Howrah station and he did not inform either the driver or the guard about the accident. He further stated that the accident occurred about 5/10 minutes before the train entered Howrah station. Sanjit Shaw to whom the said witness allegedly informed about the accident, however, was not examined.

7. On consideration of the aforesaid materials on record, in our view, the learned Court below rightly found that the body having been recovered on the platform No. 2 of the Howrah station, the case made out by the alleged eyewitness that Kartik had fallen 5/10 minutes before reaching Howrah station cannot be believed. We further find that no document was produced to show that really the alleged eyewitness was a fellow student of the same school or that on that day he really purchased any ticket of the train mentioned in the application. In the absence of any evidence showing that actually the death occurred due to the accident described in the application, the learned Court below rightly dismissed the application. Even the case of falling down from the train has not been established from the aforesaid evidence. In such circumstances, we find no reason to interfere with the finding of fact recorded by the learned Tribunal below on correct appreciation of the evidence on record. The appeal is, thus, devoid of any substance and is dismissed accordingly.

8. In the facts and circumstances, there will be, however, no order as to costs.

Bhaskar Bhattacharya, J.

9. I agree.