
(2016) 11 BOM CK 0063
In the Bombay High Court
Case No : First Appeal No. 388 of 2016

Narendra Vasudeo Amodkar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 23-11-2016

Acts Referred:

Railways Act, 1989 — Section 123(c)(2), Section 124A

Citation : (2016) 4 ACC 890

Hon'ble Judges : P.R. Bora, J.

Bench : Single Bench

Advocate : Mr. V.B. Madan, Advocate, for the Appellant; Mr. M.N. Navandar, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

P.R. Bora, J. - The appellants have filed the present appeal against the judgment and order dated 7th of December, 2015, passed by the Railway Claims Tribunal, Bench at Nagpur, in Case No. OA (IIu)/NGP/2010/0212.

2. The aforesaid claim application was filed by the present appellants seeking compensation on account of the death of Smt. Sunita Amodkar, alleging the same to have been caused in an untoward incident while deceased Sunita was travelling from Bhusawal to Jalgaon as a bona fide passenger. The alleged accident had occurred on 13th of June, 2010. As is revealing from the contentions raised by the appellants, at the relevant time, deceased Sunita was travelling from Bhusawal to Jalgaon by a train and fell down from the running train near Railway Electric Pole No.441/29 in Sakegaon Shivar, coming within the Railway Station, Bhusawal, district Jalgaon, and sustained severe injuries, ultimately resulting in causing her death.

3. The Railway Claims Tribunal has rejected the claim application holding that the claimants failed in proving that deceased Sunita was a bona fide passenger of Railway at the time when the alleged accident is stated to have happened and

further that deceased Sunita died on account of an untoward incident so as to make her legal heirs entitled for the compensation under Section 124-A of the Railways Act.

4. Shri V.B. Madan, learned Counsel appearing for the appellants has assailed the impugned judgment on various grounds. Learned Counsel submitted that though the appellants have sufficiently proved that deceased Sunita was travelling as a bona fide passenger from Bhusaval to Jalgaon and fell down from the running train because of heavy rush in the compartment through which she was travelling, the Tribunal has failed in appreciating the said evidence in proper perspective and has rejected the claim application for wrong reasons. Per contra, it has been argued by Shri M.N. Navandar, learned Counsel appearing for the Railway Administration that the Tribunal has passed well reasoned order which does not require any interference. Learned Counsel submitted that the applicants have utterly failed in proving that the deceased Sunita was a bona fide passenger and further that she died in an untoward incident as defined under Section 123(C) of the Railways Act. Learned Counsel submitted that the investigation which was carried out in the alleged death of Sunita, it has amply come on record that deceased Sunita, in an attempt to cross the Railway track, was run over by a running train and thus died due to her own gross negligence. Learned Counsel, therefore, prayed for dismissal of the appeal.

5. In the light of the submissions so made, I have carefully perused the evidence which was adduced before the Railway Claims Tribunal and the documents placed on record before the Tribunal. Apparently, I do not see any reason for causing any interference in the conclusions recorded by the learned Tribunal. Admittedly, the Railway ticket was not recovered either from the person of deceased Sunita or from the spot of occurrence where deceased Sunita was noticed to have fallen down. I have also perused the evidence adduced on behalf of the Railway Administration and the statements of the witnesses including husband of deceased Sunita recorded during the course of investigation. The statement so recorded reveals that one and all the said witnesses have stated that deceased Sunita was run over by a train while crossing the Railway track. I, therefore, do not see any reason to disbelieve the evidence of the witnesses examined by the Railway Administration. In the cross examination of the two witnesses examined by the Railway Administration, nothing has come on record so as to disbelieve their testimonies. On the contrary, it has come on record in the cross examination of husband of deceased Sunita that the Railway line is close to his residence. The material on record further shows that the Police had handed over to Narendra Vasudeo Amodkar, the husband of deceased Sunita one water bottle, one water bag and gold ornaments which were recovered from the person of deceased Sunita. However, the journey ticket was admittedly not recovered either from the spot of occurrence or from the person of deceased Sunita. AW No.1 Narendra had also admitted that his Police statement was recorded during the course of investigation. As stated earlier, the said statement clearly indicates that deceased Sunita was run over by a train while she was crossing the Railway

track.

6. The material on record further reveals that the fact of occurrence of the alleged accident was informed to the Police and to the Railway Administration by one Deepak Kashinath Dhande who is stated to be a social worker. In the First Information Report so lodged by said Deepak also, it is mentioned that deceased Sunita was run over by a running train. The FIR does not disclose that deceased Sunita fell down from a running train.

7. The appellants/applicants thus could not bring on record any evidence to substantiate their contention that deceased Sunita was a bona fide passenger and fell down from a running train while travelling by the said train. As such, I do not see any infirmity in the impugned judgment and order. The First Appeal, therefore, fails and is accordingly dismissed.