
(2014) 03 DEL CK 0376
In the Delhi High Court
Case No : F.A.O. No. 171 of 2012

Raj Bal and Others

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 03-03-2014

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23 — Railways Act, 1989 - Section 123(c), 124, 124-A

Citation : (2015) ACJ 1064

Hon'ble Judges : Valmiki J. Mehta, J.

Bench : Single Bench

Advocate : S.K. Vashistha, for the Appellant; P.K. Dey, for the Respondent

Final Decision : Allowed

Judgement

Valmiki J. Mehta, J.—This first appeal is filed under section 23 of the Railway Claims Tribunal Act, 1987 impugning the judgment of the Tribunal dated 19.12.2011 which has dismissed the claim petition on the ground that though the death of Parveen Kumar took place on 1.3.2010 when his body was found lying on the tracks at Delhi Railway Station, however, the platform ticket is legally valid only for two hours for purchase from 7.20 p.m. and the accident took place at 9.55 p.m., i.e., beyond two hours. Another ground for dismissing the claim petition is that no evidence has been led which shows that the deceased died on account of a train accident. The facts of the case as pleaded by the appellants/applicants were that the deceased Parveen Kumar came to Delhi for his school work from Faruk Nagar along with his maternal uncle. On 1.3.2010, he purchased a platform ticket (No. 47614900) for journey of his maternal uncle who was going to Khurja and thereafter both of them went to platform No. 4 at Delhi Railway Station. It was further the case of the appellants/applicants that there was a huge and uncontrolled rush of passengers on the platform and when the New Delhi EMU train came at platform No. 4 then due to thrust from passengers, the deceased Parveen Kumar got hit and fell down on

the railway track resulting in grievous injuries and died at the spot.

2. In my opinion, the Railway Claims Tribunal has quite clearly erred in dismissing the claim petition inasmuch as both the reasons relied upon by the Tribunal are quite clearly perverse to say the least. Firstly, assuming that the deceased died at 9.55 p.m. and the platform ticket was purchased at 7.20 p.m., it cannot be held that since the platform ticket was valid only for two hours, the deceased Parveen Kumar after the period of two hours of purchase of the ticket would become a trespasser. I would have understood a case where platform ticket was of one day and accident took place on the next date or thereafter and in which case there would be an issue of a person being a trespasser as the validity of platform ticket is ordinarily for two hours. The validity only for two hours presumes that all trains in this country run on time. Surely, this is not so. Therefore, noting that the object of provisions is to impose a strict liability upon the Railways, hence, sections 123(c), 124 and 124-A of the Railways Act, 1989 have to be given a purposive construction. It may be noted that a person holding a valid platform ticket is a bona fide passenger as per the Explanation to section 124-A of the Railways Act, 1989. This Explanation reads as under:

"124-A. Compensation on account of 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 travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident."

3. It is further required to be stated that even factually the conclusion of the Railway Claims Tribunal that the accident happened at 9.55 p.m. is unfortunately totally and wholly perverse because there was a statement of an eyewitness being a stall holder on the platform, namely, Hari Prasad, and whose statement has been filed and proved on record as Exh. AW1/5, and as per which statement the accident happened at 8.25 p.m., i.e., within two hours of purchase of platform ticket. This aspect is further corroborated by the document, Exh. AW1/12, being the document drawn up by the police for sending of the body to the police mortuary and which mentions the time of accident as 8.30 p.m. Therefore, it is clear that in fact the train accident in which Parveen Kumar died happened within two hours of the purchase of the platform ticket at 7.20 p.m., i.e., the accident happened at 8.25-8.30 p.m.

4. Wherever there is a train accident as per section 124 (equivalent to old section 82-A), the Railways are liable and it is not and cannot be the case of the Railways that unless there is a falling from the train, there cannot be a train accident. In the present case, the deceased was pushed on account of the rush on the platform to the tracks as a result of which he suffered grievous injuries and he died and, therefore, the present is a clear case of a train accident under

section 124 of the Railways Act.

5. Even the second conclusion of the Railway Claims Tribunal that there is no evidence to show that a train accident occurred, is a misconceived conclusion, because the statement of the independent eyewitness, Hari Parsad as AW1/5, shows that he was working at stall No. 110 of platform No. 4 at Delhi Railway Station and immediately after leaving/passing/crossing of the train he found the deceased Parveen Kumar lying dead on the tracks on account of being cut/run over by the train. This statement when taken with the fact that the appellants/applicants had led evidence to show that there was a lot of rush of passengers on the platform, it is clear that deceased Parveen Kumar died because of a train accident. I would also like to note at this stage that it is not the case of the respondent Railways that the death of Parveen Kumar is due to an act of suicide.

6. Conclusions of the Railway Claims Tribunal in the present case are wholly illegal not only because of the documents, Exh. AW1/5 and Exh. AW1/12, as stated above, but also because the respondent Railways led no evidence whatsoever before the Claims Tribunal. No witness was examined by the respondent and even the DRM's report which the respondent Railways was permitted to file has not been filed. In view of the above, the appeal is allowed. The claim petition of the appellants/applicants will stand allowed for the statutory compensation of Rs. 4,00,000 along with pendente lite and future interest at 7 1/2 per cent per annum simple. Compensation be granted to each of the five applicants in equal proportion by depositing the amounts payable to them in a nationalised bank. Bank Manager will ensure that monies after due identification are received by the applicants only directly in their hands and monies would not be payable to anyone else such as an agent or attorney, etc.