
(2016) 05 P&H CK 0263
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 4130 of 2008 (O&M)

Raj Rani Sharma and others	Vs	APPELLANT
Union of India		RESPONDENT

Date of Decision : 17-05-2016

Acts Referred:

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

Citation : (2016) 4 RCRCivil 212

Hon'ble Judges : Sneh Prashar, J.

Bench : Single Bench

Advocate : Somesh Gupta, Advocate, for the Appellant; Abha Rathore, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sneh Prashar, J.—Assailing the judgment dated 14.03.2008 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, "the Tribunal") by virtue of which the claim application filed by the appellants claiming a sum of Rs. 4,00,000/- as compensation was dismissed, the appellants filed the instant appeal.

2. The submissions made by Mr. Somesh Gupta, learned counsel for appellants and Ms. Abha Rathore, learned counsel for the respondent have been heard and record perused.

3. Learned counsel for the appellants argued that the deceased was a resident of Ambala and was working at Patiala. He was a daily passenger and used to travel by train. On the relevant day, he was to travel from Patiala to Ambala by train No.4 UB and was all alone. From the affidavit of RW1 Shri Anil Verma, Passenger Guard tendered in evidence, it transpires that the stoppage of the train at Kauli railway station was of one minute only. The deceased was trying to board the train when his foot slipped and he fell and suffered the fatal injuries. Learned Tribunal erred in ignoring the relevant documents i.e. the report of Divisional

Railway Manager and the postmortem report which supported the factum of accident pleaded by the appellants. It was also wrongly held by learned Tribunal that the deceased was not a bonafide passenger when during personal search of the dead body in the presence of staff of railways, a monthly season ticket from Ambala to Patiala was recovered from its possession. In case there was any lapse in preparing the document by the railway agencies, the appellants should not be left to suffer for the same.

4. Controverting the arguments of learned counsel for the appellants, learned counsel for the respondent pointed out that although it was mentioned in the Jamatalashi memo that an identity card and a monthly season ticket had been recovered from the dead body, yet in the memo the name and address of the deceased was mentioned as "not known". Also verification of the monthly season ticket indicated that it did not tally with the number and series of the tickets issued by the railways and that clearly proved that the recovery of the monthly season ticket and the identity card etc. from the dead body was subsequently introduced.

5. Section 123(c)(2) of the Act of 1989 provides that accident falling of a passenger from a train carrying passengers falls within the definition of untoward incident, but at the same time proviso to Section 124-A of the Act of 1989 postulates that no compensation shall be payable by the railway administration under the said Section if the passenger dies or suffers injury due to the reasons mentioned as follows:-

- (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.

6. Report with regard to the incident with the railway authorities was lodged by ASI Sarabjit Singh who was on duty at the relevant time. It is mentioned in the D.R.M. report that he was standing outside his room when a person standing near the tap suddenly ran to board the moving train. He called him out in a loud voice and stopped him from boarding the running train but he paid no heed to his voice and tried to board the train. The speed of the train being fast he slipped and fell down and got crushed to death.

7. The above facts leave no scope to call it a case of "untoward incident". The deceased was a daily passenger. He was well aware of the danger involved in catching a running train. When well before the incident the deceased was alarmed and was stopped from boarding a running train, yet he proceeded to do so, it would amount to self infliction of injuries and would fall in the exceptions to

Section 124-A of the Act of 1989 and for that reason the railway administration is not liable to pay any compensation.

8. As far as the question whether the deceased was a bonafide passenger is concerned, that too is answered in negative as in the instant case the alleged monthly season ticket recovered from the dead body on verification was found to be a fake document. There is specific report of the concerned railway authorities that the said monthly season ticket and the identity card do not match with the number and series of the railway department. There are number of inconsistencies and contradictions in the documents prepared by the G.R.P. which were noted by learned Tribunal as under:-

"As far as bonafide passenger is concerned, in the alleged jamatalashi, allegedly conducted by GRP in the presence of two gang-men, it is indicated that six items have been recovered. Two of them are Identity Card having photo of the deceased and monthly season ticket from Ambala to Patiala. The police has recorded Identity Card number but the number of MST, has not been shown. At the same time, the deceased has been mentioned as "name and address - not known" in fard jamatalashi. In the death report, in the column where name and address of the person is generally indicated, the recording is in quite different handwriting as compared to preceding and succeeding columns. This column is more prominent and bright vis-a-vis others from which an inference can be drawn that name of the person and who recognised him has been entered subsequently. As otherwise, how in the death report, which is otherwise the first act to be done by the police, name of the person is appearing whereas in the fard jamatalashi, the deceased name and address has been shown as "not known". It is very relevant to bring out that while in the fard jamatalashi, it has been stated that Identity Card and MST have been recovered from the deceased and it is well known that on Identity Card, the name and the address of the concerned person is given; likewise, in MST also, name of the pass holder is always signified, then how the identity of the person can be described as "not known". Apparent inference can be drawn that these items have not been recovered from the deceased. It is pertinent to bring out that the applicant has earlier filed copy of one fard jamatalashi alongwith claim application wherein Naksha Marg No.39 dated 3.7.05 has been mentioned on the top whereas in another one which is attested copy by one Office Superintendent, IG Office, GRP/ Patiala, in which Naksha Marg Number is not appearing and the date is appearing as 2.7.05 has also been filed. Besides, in one corner, of this fard jamatalashi, name and address of the deceased has been separately indicated which is not available on the copy filed earlier with the claim application. A photocopy of a public document is considered to be a true replica of an original documents but here, both copies differ and are having different dates as well. Such a situation will lead to believe as to papers being faked."

9. Indeed, the above contradictions indicate that the identity card and the monthly season ticket shown to have been recovered from the dead body were

subsequently introduced. The manipulation in the documents renders them unreliable and therefore, learned Tribunal rightly held that it could not be proved that the deceased was a bonafide passenger.

10. Thus, there being no merit in the appeal, it is dismissed.