
(2012) 11 MP CK 0139
In the Madhya Pradesh High Court
Case No : M.A. No. 2608 of 2010

Shri Khussad and Smt. Bhulibai	Vs	APPELLANT
Union of India		RESPONDENT

Date of Decision : 07-11-2012

Acts Referred:

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

Citation : (2012) 11 MP CK 0139

Hon'ble Judges : A.K. Shrivastava, J

Bench : Single Bench

Advocate : Mohd. Amjad, for the Appellant; Govind Patel, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal u/s 23 of the Railway Tribunal Act, 1923 has been preferred by the claimants. In the claim application filed on behalf of the appellants it has been pleaded that while coming back from Ghoradongri to Betul on 28.8.2004 their deceased son Gyandev who was travelling in Chhattisgarh Express fell down from the running train and sustained injuries resulting into his death. Thus, an application for grant of compensation has been filed. In the written statement factum of travelling the deceased has been denied. The other averments made in the claim application have also been denied.

2. The learned Tribunal while deciding issue no. 2 held that because deceased was not a bonafide passenger and the death was not untoward accident as defined u/s 123(2) read with Section 124A of the Railways Act, 1989, the compensation application cannot be allowed and dismissed the same. Although it has been found by the tribunal that the deceased has fallen down from the running train. The learned Tribunal further held that because no ticket was seized by the GRP on the date of incident i.e. 28.8.2004, therefore, it cannot be said that deceased was a bonafide passenger.

3. Thus the only point which is to be decided in this appeal is whether the

claimants are entitled for compensation and whether the deceased was a passenger in terms of Section 123 of the Railways Act. The factum of falling of the deceased from the running train although is disputed by the railway authority, but the learned Tribunal has found that he has fallen down from the running train-Chhattisgarh Express. According to me, merely because the ticket was not seized, it cannot be said that he was not a bonafide passenger. During course of journey or when the deceased had fallen down there are chances that ticket which the deceased was carrying must have fallen down or must be lost somewhere and, therefore, merely on this basis when admittedly claimants are not in possession of requisite ticket, it cannot be said that claim application cannot be allowed. In this regard, two decisions of this Court are quite relevant, they are Shyamlal Sahu Vs. Union of India (UOI), and Devkabai and Others Vs. Union of India (UOI), . Resultantly, this appeal succeeds and is hereby allowed. The impugned judgment passed by the learned Railway Claims Tribunal is hereby set aside and the claim application of the appellants is hereby allowed. Respondents are hereby directed to pay Rs. 4,00,000/- (Rupees four lacs only) to the appellants on or before 31.3.2012 failing which it shall carry interest @ 9% p.a. from the date of passing of this order.