
(2022) 02 RAJ CK 0101

In the Rajasthan High Court

Case No : S.B. Civil Miscellaneous Appeal No. 1676 Of 2017

Union Of India Through The General Manager

APPELLANT

Vs

Uday Singh

RESPONDENT

Date of Decision : 28-02-2022

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23, 123, 123(c)(2)

Citation : (2022) 02 RAJ CK 0101

Hon'ble Judges : Anoop Kumar Dhand, J

Bench : Single Bench

Advocate : S.N. Meena, Vinay Mathur, Ajay Shukla

Final Decision : Dismissed

Judgement

Anoop Kumar Dhand, J

Instant appeal under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as 'Act of 1987') has been preferred by the non-claimant-appellant (hereinafter referred to as 'the appellant') against the judgment and award dated 06.09.2016 passed by the Railway Claims Tribunal, Jaipur Bench (hereinafter referred as 'the learned Tribunal'), whereby the claim petition filed by the claimant-respondent has been partly allowed and a sum of Rs. 50,000/- along with the interest @ 6% per annum from the date of filing of the claim petition has been awarded till the date of actual payment made.

Skeleton material facts necessary for disposal of this appeal are that the claim petition was filed by the claimant-respondent before the learned Tribunal stating inter-alia that on 28.04.2010, the claimant-respondent-Uday Singh was travelling from Udaipur to Neemuch by a passenger train holding a valid second class railway journey ticket bearing No.78232666. During the said journey, when the said train reached Chittorgarh Netawali Railway Station, he got down from the train to drink water. After doing so, when he was boarding on the train, the train suddenly started with a jerk as result of it, he lost his balance and accidentally

fell down from the moving train. Due to fall from the moving train, he suffered imputation of big toe with two fingers of left foot. Besides this, he sustained multiple injuries in other parts of the body. It was also stated by the claimant-respondent that due to the aforesaid imputation suffered by him, he has become fully disabled to perform his day day work hence he is entitled to get compensation under the provisions of the Act of 1987. The appellant Railway administration submitted its reply and denied the averments of the claim petition and took a specific plea that the claim petition has been filed with an intention to get undue monetary benefit on the basis of baseless averments. No cause of action arose in view of Act of 1987 because the fact revealed during the investigation that the claimant-respondent became a victim of the accident while attempting to board on the moving train.

On the basis of the pleadings of the parties, the learned Tribunal framed the following issues:-

- "1. Whether the applicant was travelling on a valid railway journey ticket and was a bonafide passenger of the train in question at the relevant time?
2. Whether the deceased became a victim of an untoward incident due to an accidental fall from the running train and sustained injuries as a result thereof as alleged in the claim application and the said incident is covered under the definition of Section 123(c) (2) of the Railways Act, 1989?
3. Whether the applicant is entitled to compensation as claimed under Para 16 of the claim application?"

In support of the claim petition, the claimant-appellant submitted his own affidavit with documents as (Ex.A1 to Ex.A7). On behalf of the appellant- Railway Administration, the affidavit of the driver of the train-Mr. C.K. Soman was produced. After hearing both the parties, the learned Tribunal decided the issues in favour of the claimant-respondent and decided the claim petition partly in favour of the claimant-respondent directing the appellant-Railway Administration to pay a sum of Rs.50,000/- along with the interest @ 6% per annum with effect from date of filing of the claim petition till its actual payment made.

Mr. S.N. Meena, counsel for the appellant contended that the incident took place due to carelessness and negligence of the injured in fact the injured claimant-respondent was not travelling in the train at the time of accident rather he tried to board in the train from the platform when the train started. Mr. S.N. Meena further submitted that in defence statements of the driver of the train were recorded but the driver has not taken into consideration his evidence and further seriously erred in allowing the claim petition filed by the claimant-respondent.

Mr. Vinay Mathur on behalf of Mr. Ajay Shukla opposed the arguments advanced by the counsel for the appellant and prayed for rejection of the appeal.

I have considered the submissions made by the counsel for the parties and perused the impugned judgment and the documents available on record.

Although the appellant has produced one witness Mr. C.K. Soman the driver of the train in defence who has deposed in his examination-in-chief on affidavit that the claimant-respondent became a victim of the incident in the process of boarding on the moving train. But when he was cross-examined, he has admitted that after watching the claimant-respondent came running to board on the said train, he had applied the brakes because the train was just started. From the statements made by this witness, it is amply clear that the train in question just started rolling down and did not gather sufficient speed at which boarding the same can be termed as a criminal act.

The learned Tribunal while allowing the claim petition has taken into consideration the judgment rendered by the Hon'ble Apex Court in the case Jameel and Ors. Vs. Union of India reported in 2001 (1) DMP 125 (S.C) and in the case of Union of India Vs. Prabhakaran Vijay kumar reported in 2008 ACJ 1895 in which it has been held that the claimant-respondent became a victim when untoward incident due to an accident which was occurred from falling from the passenger carrying train and the case of the claimant-appellant fall within the four corner of the Section 123 of the Railways Act, 1989.

In view of the discussions made above, there is no substance in the appeal preferred by the appellant against the claimant-respondent. Consequently, the appeal is dismissed.

All pending application(s), if any, also stand(s) dismissed.