
(2010) 03 P&H CK 0324
In the Punjab And Haryana At Chandigarh

Union of India (UOI)

APPELLANT

Vs

Smt. Reeta and Another

RESPONDENT

Date of Decision : 08-03-2010

Acts Referred:

Railways Act, 1989 — Section 124

Citation : (2011) ACJ 1854 : (2010) 158 PLR 600 : (2010) 4 RCR(Civil) 15

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Judgement

Rakesh Kumar Jain, J.—Challenge in this appeal is to the order passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short "the Tribunal") dated 29.1.2008 by which the claimants/respondents have been awarded Rs. 4 lacs towards compensation and out of which respondent No. 1 is held to be entitled to Rs. 3 lacs being widow of the deceased and respondent No. 2 to a sum of Rs. 1 lac being mother of the deceased.

2. In brief, the respondents have filed a claim application for a sum of Rs. 6 lacs as compensation on account of death of Kuldeep Singh @ Tony in a railway accident dated 9.1.2004. It is alleged that Kuldeep Singh @ Tony (since deceased) aged 24 years was working as a Sweeper in PGIMS, Rohtak. He was going from Mangolpuri (Delhi) railway station to Rohtak on 9.1.2004 by train No. 3-DRB possessing valid train ticket No. C-01590994. While the train was at railway station Rohtak, he fell down due to a sudden jerk and received multiple grievous injuries which resulted into his death. The appellant-railways denied the accident, alleging that according to the Station Superintendent, Rohtak and driver of the alleged train, no such incident had occurred on 9.1.2004. It was also alleged that the deceased received multiple injuries in an effort to alight from a moving train which amounts to "own criminal act" or "self-inflicted injury" for which no compensation is payable in terms of proviso (b) & (c) to Section 124 of the Railways Act, 1989 (for short "the Act"). It was, however, admitted that ticket No. C-01590994 was issued on 9.1.2004 but there is no record that it was

issued to the deceased. The learned Tribunal, after framing relevant issues received evidence of both the parties and had found that witness Virender Singh, who happens to be a Police Constable (GRP) and was deployed at Railway Station, Rohtak on platform duty, heard hue and cry from the passengers, when train No. 3-DRB arrived at platform No. 3 at about 7.45 hours, that one person had fallen down from the train while alighting and had come between the platform and the train. He evacuated the body of the deceased with the help of other passengers from beneath the train from open line side of the railway track. The deceased was semiconscious and disclosed his name as Tony, who had suffered deep injuries on his head and his left hand was crushed from the elbow joint. He took the injured by auto-rickshaw to the PGIMS, Rohtak and got him admitted in the casualty ward, where he succumbed to his injuries. On the other hand, The Railways had examined Labhesh Kumar, Guard of 3-DRB train, who has stated that no untoward incident had occurred by his train during his duty hours. He admitted that the train stops for five minutes at Railway Station, Rohtak and on that day when the train started, CVD (chain pulling) took place. The learned Tribunal, from the preponderance of evidence, available on record, found that the deceased was a bona fide passenger having valid ticket in his possession, which was found in inquest, and had suffered grievous injuries as he fell down from the train due to sudden jerk and on that basis, the claim petition has been allowed.

3. In the present appeal, learned Counsel for the appellant has vehemently argued that the respondents/claimants are not entitled to any compensation in view of proviso (b) & (c) to Section 124 of the Act. The deceased was himself to be blamed for having suffered multiple grievous injuries and consequential death because he was alighting from the moving train.

4. There is no such evidence on record led by the appellant, which could prove that the deceased was alighting from the moving train rather, the defence taken by the appellant is that no such incident had even occurred on the fateful day. They have relied upon the statement of the guard and the driver of the train, which has been found to be false in the presence of the other evidence on record, which included the statement of Virender Singh Constable on duty on the platform, who had evacuated the injured/deceased from beneath the train from open line side of the railway track and had admitted him to the casualty ward, PGIMS, Rohtak. Doctor has also opined that injuries are ante-mortem in nature and could have caused in a railway accident.

5. Thus, in the absence of any positive evidence on behalf of the appellant that the deceased was himself negligent, the finding of fact recorded by the learned Tribunal, after appreciating the evidence on record cannot be tinkered with. Therefore, keeping in view the totality of circumstances explained hereinabove, I do not find any merit in the present appeal and as such the same is hereby dismissed though without any order as to costs.