

Ramesh Vs. Union of India Through General Manager Northern Ra

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Court : Delhi

Decided On : Jan-13-2014

Judge : Valmiki J. Mehta

Appellant : Ramesh

Respondent : Union of India Through General Manager Northern Ra

Advocate for Def. : Mr. Amitabh Narender

Advocate for Pet/Ap. : Mr. Anshoman Bal

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + FAO4552012 13th January, 2014 % RAMESH Through:Appellant Mr. Anshoman Bal, Advocate. VERSUS UNION OF INDIA Through General Manager Northern Railway, New Delhi Respondent Through: Mr. Amitabh Narender, Advocate. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) CM Nos. 19052/2012 (delay of 10 days) & 19053/2012 (delay in re-filing) For the reasons stated in the application delay in filing and re-filing is condoned. CMs stand disposed of. FAO4552012 1. Challenge by means of this first appeal under Section 23 of the Railway Claims Tribunal Act, 1987 is to the impugned judgment of the Railway Claims Tribunal dated 6.1.2012 by which the claim petition filed by the appellant herein/ applicant (now deceased and represented through his legal heirs) before the Railway Claims Tribunal was

dismissed.

2. The case of the appellant was that he is entitled to compensation because he fell down near Sabzi Mandi Delhi from the train while travelling from Morena Railway Station to Hazrat Nizamuddin Railway Station, New Delhi in Dadar Amritsar Express Train at 3.30 A.M. in the morning of 10.2.2011. The case pleaded was that since falling down from the train was on account of an untoward incident because of heavy rush in the train and the sudden jerk of the train, the appellant is entitled to compensation. The further case of the appellant was that when he fell down on account of heavy rush and sudden jerk at the cabin near Sabzi Mandi Tuglakabad Railway Station, Delhi, the accident occurred due to negligence of the Railways. The appellant claimed that he was taken to Jai Prakash Narain Apex Trauma Centre, AIIMS, New Delhi where he was said to have been in trauma for more than 20 days. The appellant claims that he was a bona fide passenger of the Railways and since there was an untoward incident as a result of which both his legs were amputated, appellant is accordingly entitled to compensation.

3. Railway Claims Tribunal has dismissed the claim petition by holding that neither the appellant was a bona fide passenger and nor the appellant was injured on account of fall from the train. The Railway Claims Tribunal has accepted the case of the Railways, and as per which, the appellant was not injured on account of a fall from the train. The appellant was in fact found as per the Railways about 125 meters from the main line from where the mail/Express/Passenger trains pass and at the line, URD-11 which is a goods yard line where there is no movement of passenger carrying trains and only shunting takes place in the yard lines. The case of the Railways was that the appellant was trying to cross train tracks near the yard line, and his legs got run over by the train and hence the accident.

4. The Railway Claims Tribunal has dismissed the claim petition by giving the following findings:(i) Appellant cannot be said to be a bona fide passenger because the particulars of the train ticket have been mentioned in the DD No.10B for the first time on 5.3.2011 although the accident happened more than 20 days before on 10.2.2011. Further the Railway Claims Tribunal noted that the train

ticket which has been found is not an original railway ticket but only a photocopy without any explanation being given as to how the appellant had got with him the photocopy of the ticket and not the original ticket. To the above conclusion given by the Railway Claims Tribunal, I would like to note the fact that the appellant in his cross-examination on 13.9.2011 admitted that though on account of the accident he became unconscious and yet in the same breath he also stated that police after the incident took away the ticket from him. Surely, if the appellant was unconscious immediately after the accident, there is no question of his giving the train ticket to the police. Even if we for the sake of arguments take that the train ticket was given to the police then how can a photocopy be available with the deceased alongwith the original ticket at the time of incident for the appellant to have retained the photocopy of the train ticket. It may be noted that the appellant in his cross-examination had admitted that he became unconscious because of the accident and got back consciousness only after two days of the accident. I would also add the factum of admission made by the appellant in his cross-examination that he had travelled from Delhi to Morena (and he fell from the train while returning back from Morena to Delhi) but he had not purchased any train ticket for travelling from Delhi to Morena. (ii) Railway Claims Tribunal has rightly held that if the appellant actually had fallen down from a train, then, probability is that his legs would not have been crushed under the same train in which he was travelling. (iii) Appellant is residing in the area of Prahaldpur which is not too far from the place where the accident took place and therefore he really must have been crossing the tracks when he met with the accident.

5. Therefore, in my opinion, conclusions of the Railway Claims Tribunal that the appellant was not a bona fide passenger and he did not have a train ticket cannot be faulted with.

6. In addition to the above conclusions, and after perusing the trial court record, I find that the following additional conclusions can be arrived at for dismissing the claim petition and upholding the judgment dismissing the claim petition: (i) Appellant who is a labourer states that he left Delhi to meet his relative at Morena, M.P, however, in the cross-examination he states that he did not know the name of that relative or the address of that relative. Clearly the appellant was making out

an incredulous story and which additionally becomes clear from the fact that in the cross-examination he admitted that his relatives were living in a village at Morena, but, he did not even know the name of the village where the relatives were living. (ii) If the case of the appellant was that his two legs got crushed in the accident, then, how could he have been found 120 yards away from the main line which carries the passenger trains, much less because the case of the appellant was that he had become unconscious immediately after the accident and which unconsciousness lasted for two days. In the facts such as the present thus it is unconceivable for a person like the appellant whose legs have been crushed in an accident to have been found 120 yards from the main line taken with the fact that appellant claims that he became immediately unconscious after the accident. (iii) In the trial court there is a report dated 10.2.2011 (Ex.AW1/E) and which is a report of the guard near the cabin that legs of a person have been cut and which was near the A cabin of Old Sabzi Mandi Railway Station i.e the goods yard line as the facts of the case shows.

7. In view of the above, it is quite clear that the entire case set up by the appellant is false and that actually the appellant was living near the area where the accident took place and his legs were not crushed by the train in which he was allegedly travelling. Appellant was not travelling in the passenger train from Morena to Delhi and in fact he was crossing the goods yard line where he met with an accident with a train and whereby his legs got crushed. Appellant definitely was not a bona fide passenger and it is indeed mysterious how a photocopy of a train ticket was with the appellant instead of the original train ticket and that too when appellant states that he had become unconscious for two days after the accident, and that the police had in fact taken away the train ticket from him. Also, as stated above, the appellant admitted in the cross-examination that he had not purchased ticket for travelling from Delhi to Morena and that he does not know the name of the relatives at Morena or the name of the village where the relatives stayed in Morena.

8. I bears note that in many cases the whole purpose of creating of the Railway Claims Tribunal is defeated because the legal process is sought to be exercised by certain person who file false claims for compensation. This is one such case. In

certain cases, I have imposed costs and in others I have directed for commencement of proceedings under Section 340 Cr.P.C so that there is a lesson to persons filing dishonest claims. However, in the facts of the present case where the appellant has died and is substituted by his legal heirs, in view of the circumstances which exist today, I am not imposing any condition while dismissing the appeal. The appeal is accordingly dismissed, leaving the parties to bear their own costs. JANUARY13 2014 VALMIKI J.

MEHTA, J.

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