

Union of India Vs. Devki Devi and ors.

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Court : Delhi

Decided On : Mar-06-2014

Judge : Valmiki J. Mehta

Appellant : Union of India

Respondent : Devki Devi and ors.

Advocate for Def. : Ms. Rupika Singh

Advocate for Pet/Ap. : Mr. Praveen Kumar

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + FAO No.26/2013 6th March, 2014 % UNION OF INDIA Through: Appellant Mr. Praveen Kumar, Advocate. Versus DEVKI DEVI & ORS. Through: Respondents Ms. Rupika Singh, Advocate. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This first appeal is filed by the Railways against the judgment of the Railway Claims Tribunal dated 30.8.2012 allowing the claim petition filed by the respondents herein.

2. The facts as pleaded by the respondents were that the deceased Gian Chand on 18.7.2009 after purchasing a valid ticket bearing no.04460956 was travelling from Delhi Junction to Muradabad by the Delhi Barrely Passenger train. It was

further pleaded that during the course of travelling when the train reached between Pilkhua and Hapur, Sh. Gian Chand fell down from the train and received serious injuries which resulted in his death. The deceased was admitted to Saraswati Medical Hospital and thereafter transferred to M.M.G. Hospital, Ghaziabad where he succumbed to his injuries on 25.7.2009 about a week after the alleged untoward incident.

3. The Tribunal has held that the deceased was a bonafide passenger because the ticket was filed and proved as Ex.A8 and that the report of the Investigating Officer Akhilesh Kumar (RW1), Inspector, S.I.B. ought not to be believed because the Investigating Officer personally did not go to the hospital etc to carry out investigation.

4. Learned counsel for the appellant argued that the deceased was not a bonafide passenger inasmuch as the train ticket was procured only for the purpose of filing the claim petition. It is also argued that the deceased did not die in an untoward incident on account of a fall from a train and the accident was in fact a road accident as per the documents filed before the Tribunal and a false claim petition has been filed to claim the statutory compensation of Rs.4 lacs.

5. Learned counsel for the respondents refuted the arguments urged on behalf of the appellant and relied upon the conclusions of the Railway Claims Tribunal.

6. In my opinion, the arguments urged on behalf of the appellant need to be accepted for the reasons stated hereinafter.

7. Firstly, the date of the untoward incident is 18.7.2009 and death is stated to have happened on 25.7.2009 and in this entire period it is the undisputed case emerging on record that the deceased was not contacted by any of his family members and the statements of family members are recorded only after the death of the deceased on 25.7.2009. This aspect is relevant because there is a crucial issue in this case as to whether at all an untoward incident happened in the railway premises for compensation to be granted. In dozens and dozens of cases which have come up before this Court whenever there is an incident in the railway premises there is at least one document whether a DD or a police enquiry report

or a station masters report or a noting of the guard of the train or another employee of the Railways that an incident has happened in railway premises. In the present case, there is not a single document to suggest that there is any incident which happened on the railway premises i.e at railway tracks or the railway platform or any other portion of the railway property. The onus of proof was on the respondents/claimants to show at least by some minimum possible evidence that the deceased died on account of falling from the train, however, this onus is not discharged because admittedly there is no document that the deceased died in the railway premises and neither is there any eye-witness nor a co-passenger who has stated of death of Sh. Gian Chand on railway property, much less by falling from a train. On the contrary, as per an endorsement in the hospital record, there is a mention of RTA and which refers to and is an abbreviation for Road Traffic Accident. The Tribunal has most unfortunately ignored this aspect on the ground that this could be routinely written and because the Investigating Officer, namely Akhilesh Kumar, Inspector, S.I.B. did not go to the spot or the hospital for personal enquiries.

8. It also requires to be noted in the present case that how has an original train ticket been filed by the respondents in this case because there is no document that the ticket was handed over to the respondents either by the police authorities or the hospital authorities or that the same was recovered in the jamatalashi/search of the person of the deceased. One ticket has miraculously appeared and which surely is only a miracle because admittedly the deceased was travelling alone and the family members came to know of the death of the deceased many days after the alleged untoward incident on 18.7.2009. Therefore, it is clear that the ticket which has been filed and placed on record as Ex.A8 is a procured ticket inasmuch as the same is only a general ticket of the date of the incident, and there is no explanation given as to how the respondents have come into possession of this train ticket which was allegedly with the deceased Sh. Gian Chand.

9. In view of the above, it is clear that no accident happened in the railway premises. The accident was in fact a road traffic accident as found from the expression RTA in the hospital records and the DRMs report. That there is no

accident on the railway premises is clear because there is not even a single document to show that the accident happened in railway premises. The deceased was also not a bonafide passenger as no explanation has been given as to how the so called original train ticket came into the possession of the respondents.

10. In view of the above, the appeal is allowed. Impugned judgment of the Tribunal dated 30.8.2012 is set aside. The claim petition of the respondents will accordingly stand dismissed. The amount deposited in this Court alongwith accrued interest, if any, be released to the appellant within a period of six weeks from today.

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