

Mohan Lal Vs. Union of India

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Court : Delhi

Decided On : May-16-2014

Judge : Valmiki J. Mehta

Appellant : Mohan Lal

Respondent : Union of India

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + % FAO1392014 16th May, 2014 MOHAN LAL Through:Appellant Mr. S.K.Vashistha, Advocate. VERSUS UNION OF INDIA Respondent Through: 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 under Section 23 of the Railway Claims Tribunal Act, 1987 impugning the judgment of the Tribunal dated 24.1.2014 which has dismissed the claim petition filed by the appellant who was injured in an untoward incident on 26.2.2012.

2. The case of the appellant was that on 26.2.2012, he was travelling by the train Himalaya Queen Exp. Train from Kalka to Delhi and he fell down accidentally from the running train near the Sarai Rohilla/ Delhi Railway Station due to sudden jerk in the train. 3(i) So far as the aspect that the deceased was a bonafide passenger is concerned, the same is found in favour of the appellant by the Tribunal. The Tribunal has however found that the appellant was guilty of criminal negligence

and the present case was a case of self-inflicted injuries because the appellant tried to de-board the train which was coming at a high speed in the station. The appellant has been held to be trying to de-board the train which was entering the station at a high speed and which is clear from the fact that the bogie/coach from where the appellant was de-boarding was the second coach from the engine. When a long distance train, and which has around 16 to 19 bogies, enters a station, in its natural course, at the initial stage of entering the station, the speed is high, and which speed gradually comes down when the train slows down for stopping at the requisite places where engine has to stop and the bogies have to be placed. (ii) The Tribunal has in this regard relied upon the statement of an eye witness Sh. Ramsakal Basisth, an employee of the Railway Police Force and this eye witness specifically stated that the appellant tried to get down from the running train which was at a high speed and consequently suffered injuries in the process. The relevant paras of the judgment of the Tribunal

08. The circumstantial evidences connected to the incident does not suggest that Mohan Lal accidentally fell down from the running train. Had he fallen from the train through the exit, the body of the person, would have had a trajectory, thereby dropping him away from the track on the platform and not in between the coach and the track. Moreover, the Type of injury which a victim sustains in a case of accidental fall, is different i.e. lacerated wounds, fractures, head injury etc. However, as per his own admission and medical report (Ext.A-7 & A-8), Mohan Lal went inside the gap in between the track and the platform and crushed his right leg. Moreover, neither any copassenger nor the Guard (Ext. R-23) of the train saw Mohan Lal falling. In fact, it was the Station Master/Delhi Sarai Rohilla station, who reported vide his memo dtd. 26.02.2012 (Ext.R-25) addressed to GRP, that a passenger has fallen down from train no.14096 at the time of detraining. A similar information was relayed by SSE/C&E that a man has been found lying unconscious in front of train duty C & W office on platform no.01 (Ext.R-25). The above records confirm that Mohan Lal met with the accident at the extreme end of the platform, while trying to deboard from the running train, which was entering the platform at a high speed and in that process went in between the track and the platform. 09. On 26.02.2012, the applicant informed Head Constable Om Prakash on phone, that he fell down from the crowded compartment of the Himalayan

Queen Ext. At the time of deboarding due to a sudden jerk (Ext.A-5). GRP/Delhi vide their DD No.208 dtd. 15.03.2012 recorded that no further enquiry is required to be conducted in this case. However, the railways on receipt of the memos from the SSE (C&W) and Dy. SM/Delhi Sarai Rohila, conducted their own investigation and recorded the details of the incident on the basis the statement of Shri Ramsakal Basisth, SI/RPF, DDE, who witnessed the incident himself. As per his statement (Ext.R-18) on 26.02.2012, at around 22.05 hrs when he was on duty at the station, he saw a person trying to deboard near the FOB from the second coach from the engine of train no.14096 Himalayan Queen Exp. He adds that he advised the passenger not to obtain like this but the person did not pay any heed to his advice and in the process toppled and went below the train, sustaining grievous injury. He informed GRP and at 23.20 Hrs. the injured person was taken to the hospital by the PCR Van. I have no reason to disbelieve this first hand account of a RPF official, which was recorded in the RPF post diary of Delhi Sarai Rohila station at 23.45 hrs of 26.02.2012 (Ext. R-17). After all, the railways have an well established system of recording all events, connected of train running on a day to day basis, in the station diaries of all branches.

4. I completely agree with the aforesaid observations and conclusions of the Railway Claims Tribunal because there is no reason why statement of an independent witness and who is an employee of the Railway Police Force, should be disbelieved. I may note that strict rules of Evidence and CPC do not apply to the Railway Claims Tribunal, and therefore, I disagree with the arguments urged on behalf of the appellant that the statement of Sh. Ramsakal Basisth could not be used unless he was brought into the witness box by the respondent. Contemporaneous statement made to the appropriate authorities, at the time of happening of the untoward incident can be used as a document as per facts of each case in cases before the Railway Claims Tribunal. In the facts of this case on preponderance of probabilities the Railway Claims Tribunal has rightly believed the statement of the independent/neutral witness Sh. Ramsakal and which has been proved as Ex.R-18 and if the appellant wanted to dispute the statement/document Ex.R-18, the onus was upon the appellant to summon Sh. Ramsakal, and which he failed to do.

5. As per the provisions of Section 123(c) read with Section 124- A of the Railways Act, 1989, no doubt the liability of the Railways is a strict liability, but it is equally well settled that once a person gets injured on account of his own criminal negligence or the case is a case of self-inflicted injuries, no compensation can be awarded.

6. In view of the above, I do not find any merit in the appeal, and which is therefore dismissed, leaving the parties to bear their own costs. MAY16 2014 ib
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