

Union of India Vs. Satyavir Singh

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Court : Delhi

Decided On : Dec-13-2010

Judge : Mool Chand Garg, J

Acts : Railways Claim Tribunal Act, 1993 - Section 23, 16; [Railways Act, 1989](#) - Section 124 A

Appeal No. : FAO.No.39/2008

Appellant : Union of India

Respondent : Satyavir Singh

Advocate for Def. : Mr.M.R.Sinha, Adv.

Advocate for Pet/Ap. : Mr.Shantanu Sagar, Adv.

Judgement :

1. This is an appeal filed by the appellant under Section 23 of the Railways Claim Tribunal Act, 1993 for setting aside the order dated 13.08.2007 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as "the Tribunal"), whereby the learned Tribunal has awarded a compensation of ` 3,60,000/- along with interest @ 9% p.a. from the date of the order till the date of the actual payment to the respondent under Section 124 A of the [Railways Act, 1989](#).

2. The facts relevant for the appraisal of this Court are that the respondent herein filed a claim petition under Section 16 of the Railway Claims Tribunal Act against the appellant for payment of compensation of an amount of ` 4,00,000/- under Section 124 A of the Railways Act for the injuries alleged to have been sustained by him in an untoward accident which occurred on 14.09.2004 at Sahibabad Railway Station involving the train GDNI-EMU. The case of the respondent before the learned Tribunal was that the respondent boarded the train GDNI-EMU from Sahibabad Railway Station for his journey to Delhi and as the train started with a jerk/jolt he fell down from the moving train at the Sahibabad Railway Station itself and due to which he received multiple grievous injuries as a result of which his right arm was badly crushed. Thereafter, he was removed to N. M. Hospital, Ghaziabad from where he was further taken to Military Base Hospital at Delhi Cantt. Further, during the treatment, his right arm from the shoulder joint was amputated.

3. In support of his claim, the respondent examined himself as AW-1 and examined his friend as AW-2, who had come to the railway station to see him off. Besides the oral evidence, he has also placed on record the documentary evidence in the form of AW-1/1 to AW-1/5. As against this, the Railway Administration has examined RWs 1 to 4. Out of the four witnesses examined on behalf of the respondent, RW-1 was the Guard on duty in Train no. GDNI-EMU, RW-2 was on duty as Assistant Station Master at Sahibabad Railway Station and RWs 3 and 4 claim to be the eyewitnesses to the incident. Besides the oral evidence, the respondent has also produced the documentary evidence in the form of Ex.RW-1/1, RW-2/1 and RW2/2. The claim petition of the respondent was contested by the appellant herein by filing the written statement in which it was specifically averred that the respondent was not a bona fide passenger and the injuries received by him were on account of his own negligence and various other grounds were also taken by the appellant.

4. The Tribunal, after hearing the arguments of both the parties and perusing the entire material and the evidence on record, passed the impugned order dated 13.08.2007, whereby the learned Tribunal awarded the compensation as aforesaid.

5. The Tribunal on the basis of the pleadings of the parties framed the following issues:-

1. Whether the applicant was a bona fide passenger at the time of the incident, if not what effect?

2. Whether the applicant received injuries in an untoward incident, while travelling in a train, if so to what effect?

3. What were the nature of injuries suffered by the applicant?

4. To what amount of compensation, if any, is the applicant entitled?

5. Relief.

6. Appreciating the evidence which came on record, the Tribunal decided Issue No.1 in favour of the respondent by holding the respondent was a bona fide passenger on the train in question inasmuch as, the appellant has failed to adduce any evidence to show that the respondent was not a bona fide passenger on the relevant day.

7. As regard the injuries sustained by the respondent, the respondent had denied the suggestion in cross-examination that he was under the influence of liquor at the time of the incident or that he wanted to commit suicide or that in the process, he received injuries. In the cross- examination, it was also suggested that he did not fall from the train and that he was trying to cross the track. All these suggestions have been clearly denied by AW-1. In view of these contrary suggestions to the respondent, the Tribunal observed that:-

"It is pertinent to note that the respondent has made inconsistent suggestions to AW-1 in the cross-examination. Apart from this the case sought to be suggested to AW-1 in the cross-examination that he was intoxicated and was trying to commit suicide by crossing the track does not find mention in the written statement filed by the respondent. Thus, the suggestions made in this regard to AW-1 in the cross-examination are contrary to the pleadings of the respondent. It is needless to point out that the respondent should lay a foundation in its written statement regarding

its defense. In the absence of which it would amount to a chance defence. That apart, it appears that respondent has not put forth a specific plea or a specific defense to escape its liability to pay compensation. On the contrary, it appears that it is trying to put forth all such inconsistent and chance suggestions to escape its liability to pay compensation. It would be of some relevance to note here itself that though the respondent has filed written statement on 17.7.2005, it did not accompany the DRM's report."

8. The Tribunal took note of Rule 13 of the Railway Passengers (manner of investigation of untoward incidents) Rules 2003 which makes it obligatory on the part of the Railway Administration to file investigation report with the comments of DRM while filing the written statement in the case, which has not been done by the appellant in this case inasmuch as, the DRM's report was produced by them on 10.11.2005 much after filing of the written statement. Moreover, except placing the same on records, it was not tendered into evidence by examining any witness in this regard. Moreover, the Tribunal also observed that DRM's report shows that the same has been prepared according to their convenience after the claim was lodged by the respondent before the Tribunal and which falsified the credit-worthiness of the said report.

9. The Tribunal further observed that the documents which were produced later were manipulated inasmuch as the documents were placed on record to show that the respondent tried to cross the tack which was not a story put forth by the appellant while filing a written statement.

10. In these circumstances, the Tribunal held that the version of the incident as sought to be pleaded by the appellant by taking reliance upon the statement of RW-3 and RW-4 whose evidence has been found to be hearsay, inasmuch as, the presence of RW-3 and 4 has not been spoken to by RW-2 cannot be believed and decided even Issue No.2 against the appellant.

11. In these circumstances, the Tribunal further observed that since the injuries were sustained by the appellant having fallen from a running train due to sudden and violent jerk, the nature of incident involving a train is covered by the definition of Section 123 (c) in the term accidental fall and does not require any accident of

any particular nature for considering such a fall as having occurred in an untoward incident covered under Section 124 A which even otherwise needs a liberal construction taking into consideration that the Railway Claims Tribunal Act is a social welfare legislation. Reference has also been made by the Tribunal to the case of Union of India v. B.N.Prasad, (1978) 2 SCC page 462, wherein it has been observed :-

" as the provision is in public interest meant to avoid inconvenience and expense for the travelling public and gear up the efficiency of the railway administration, it must be construed liberally, broadly and meaningfully so as to advance the object sought to be achieved by the Railway Act "

12. Referring to another judgment of the Apex Court in the case of Rathi Menon v. UOI, 2001 ACJ 721, the Tribunal rightly observed that the provisions of the Railways Act are not intended to give a gain to the Railway Administration, but they are meant to afford, just and reasonable compensation to the victims in a speedier manner.

13. In these circumstances, considering the nature of accident which involved imputation of one of the arms of the respondent, the Tribunal awarded a sum of ` 3,60,000/- for the injuries sustained by the respondent in the accident along with interest @ 9% p.a.

14. Having examined the order passed by the Tribunal and after hearing submissions from both the sides, I am satisfied that no case has been made out by the appellant for interfering with the detailed and reasoned award given by the Tribunal in this case. Consequently, the appeal filed by the appellant is dismissed. Trial court record be sent back along with a copy of this order.

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