



Sushila & ors.

..... Appellants

versus

Union of India

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Anand Singh, Advocate for the appellants.

Mr. Somesh Gupta, Senior Panel Counsel
for the respondent-UI

PANKAJ JAIN, J. (ORAL)

1 Challenge is to the award dated 05.04.2017 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh dismissing the claim petition filed by appellants seeking compensation on account of death of Satyawar in an untoward incident while travelling with railways.

2 As per the claimants the deceased Satyawar was travelling from Hansi to Bandikui along with one Surender after purchasing a valid ticket bearing No.D 47412557 when he accidentally fell from the train between Km 41/4-41/5 at Jhadli yard. The deceased was rushed to Government Hospital Kosli by railway employees from where he was further referred to PGI, Rohtak where he succumbed to his injuries. The claimants thus claimed compensation on account of death of the deceased Satyawar.



3 The claim was contested by railways denying that the deceased was a bonafide passenger. It was claimed that no railway ticket was recovered from the *jamatalashi* of the deceased. The ticket propounded in the claim petition is a planted ticket. The deceased did not received any injury while travelling in any train.

4 On the basis of the pleadings following issues were framed :-

- “1. Whether the deceased was a bonafide passenger of the train on the date of incident, as alleged?*
- 2. Whether the alleged incident is covered within the ambit of Section 123 (c) read with Section 124-A of the Railways Act?*
- 3. Whether the applicants are the only dependants of the deceased?*
- 4. Relief.”*

5 While deciding issue No.1 Tribunal held that even though *fard peshkardagi* dated 16.05.2013 by GRP has been tendered in evidence. However, the same cannot be considered in view of the fact that Vinod S/o Shri Raj Singh suffered statement before RPF on 19.11.2013 wherein he denied producing any ticket to anyone. The Tribunal thus answered issue No.1 against the claimants. Deciding issue No.2 Tribunal referred to the statement of co-passenger who knew nothing about the incident. Tribunal held that it is highly unbelievable that the co-passenger was totally oblivious with respect to the happening with the deceased and came to know only after he was informed by the police as claimed by him. Answering issue Nos.1 & 2 against the claimants the Tribunal dismissed the claim petition.



6 Counsel for the appellants has drawn attention of this Court to the document ex.AW1/5 i.e *fard peshkardagi*. He submits that the Tribunal erred in misreading the document. Heavy reliance has been placed upon statement made by Vinod before GRP whereas Vinod never appeared before the Tribunal. He further submits that it has come in the statement made by co-passenger Surender that Satyawar went to washroom and he went to sleep. Ticket having been fully proved, it cannot be denied that the deceased was travelling in train. It is not denied that the place of accident, i.e. Jhadli yard is on way from Bandikui to Bhiwani and thus the only inference that can be drawn is that the deceased died in an untoward incident while travelling with railways.

7 *Per contra*, Mr. Somesh Gupta, Advocate for the respondent-UOI has supported the findings recorded by the Tribunal. His objection is that Union of India was impleaded through General Manager, North Western Railways and not through Northern Railway. He further submits that once Vinod S/o Shri Raj Singh one of the witnesses to the *fard peshkardagi* suffered statement before the GRP that the ticket was never produced by him, the Tribunal rightly held that the ticket referred to in *fard peshkardagi* in AW1/5 cannot be believed.

8 I have heard learned counsel for the parties and have gone through the records of the case.

9 It is not disputed that *fard peshkardagi* was recorded and is part of the investigation/inquiry conducted by GRPF. The Tribunal has totally misread the memo. The memo does not record that the ticket was presented by Vinod S/o Shri Raj Singh. Rather it records that in presence of Vinod



S/o Shri Raj Singh and Kamal S/o Chaman Lal the ticket was recovered after search from the pocket of the deceased Satyawan. Thus the document prepared by railway police has been tendered in evidence by the claimants. The burden thereafter shifted upon railways to dislodge the same. Admittedly neither Vinod nor Kamal the attesting witnesses nor the author of *fard peshkardagi* was produced before the Tribunal. In view thereof, in the considered opinion of this Court, Tribunal erred in disbelieving the *fard peshkardagi-AW1/5*. Once the claimants fully proved from the document coming from the possession of the respondent-UOI that the deceased was travelling on a valid ticket, Tribunal misdirected itself in recording finding against the claimants on issue No.1.

10 The findings being unsustainable are hereby set aside and reversed. It is held that the deceased Satyawan was travelling on a valid ticket on 14.05.2013.

11 Counsel for the appellants has further drawn attention of this Court towards the inquiry conducted by DRM which shows that DRM verified the ticket and on verification it was found that the ticket was indeed issued from Bandikui station.

12 So far as issue with respect to untoward incident is concerned, once it has already been held that on the fateful day the deceased was travelling on a valid ticket from Bandikui to Bhiwani and it is not disputed that Jhadli Railway station falls on the way, the only inference that can be drawn is that the deceased died of accidental fall and is a victim of untoward incident as contemplated under Section 123 read with Section 124 A of the



Railways Act, 1989. In view thereof, the findings recorded by the Tribunal are hereby set aside and reversed.

13 Claimants are held entitled for compensation on account of death of deceased Satyawan. Since the untoward incident relates to date prior to amendment of the schedule the claimants shall be entitled for compensation of Rs.4.00 lakhs along with interest @ 7.5% per annum from the date of incident till the date of actual realization or Rs.8.00 lakhs whichever is higher.

14 The claimants shall move an appropriate application giving details of their bank account before the Tribunal within a period of 4 weeks with an advance copy to the Railways. After receiving advance copy with respect to details of bank accounts, Railways shall within a further period of 12 weeks deposit the entire compensation payable to the claimants in the bank accounts. In the event of failure of Railways to deposit the compensation within the prescribed period of 12 weeks, the Railways shall be liable to pay interest @9% per annum from the date of passing of this order till the date of actual realization.

15 With the aforesaid modification the appeal is disposed off.

23.05.2025

Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No