Maheshwar Thakur Vs The Union of India

Court: Jharkhand High Court

Date of Decision: Oct. 14, 2014

Acts Referred: Railways Act, 1989 â€" Section 124A

Citation: (2014) 4 JLJR 338

Hon'ble Judges: Dhrub Narayan Upadhyay, J

Bench: Single Bench

Advocate: Ashutosh Mishra, Advocate for the Appellant; Ram Nivas Roy, Advocate for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Dhrub Narayan Upadhyay, J.
This appeal has been preferred against the judgment dated 22.11.2012 passed by the Railway Claim

Tribunal, Ranchi Bench in connection with Case No. TAU/RNC/2010/0098 whereby the application for grant of compensation filed by the

appellant has been dismissed. The facts, in brief, is that the deceased along with his sister Pummi AW-4, uncle Sushil Thakur AW-2 and cousin

brother Mukesh Thakur AW-3 had boarded train No. 8182 Chapra-Tata-Katihar Express on 24.1.2004 at Barauni Railway Station for going to

Tata Nagar. On the next morning i.e. on 25.1.2005 when the train left Adityapur Railway Station, deceased Dublu Thakur, who was standing near

the wash basin of the compartment, suddenly fell down from the running train, sustained injuries and died. Immediately the train was stopped by

pulling chain. The companion who were travelling with the deceased got down from the train, went near the injured and reported the matter to

G.R.P. The fard beyan of Mukesh Kumar Thakur was recorded at Platform No. 5 and after that other formalities like inquest report, dead body

challan was prepared and then post mortem on the dead body was done. The father of the deceased filed application for grant of compensation in

lieu of the death of his son Dublu Thakur and further adduced evidence in support of his contention but the learned Tribunal has been pleased to

dismiss the claim application and hence this appeal.

2. The appellant has assailed the impugned judgment mainly on the ground that the finding of the learned Tribunal is highly erroneous, beyond the

record and based on surmises and conjectures. The Tribunal has also held that no valid ticket was produced by the claimant to justify that the

deceased was bona fide passenger ignoring R-3 which is the document produced by the respondent. At the top of the document R-3, it is written

that on the date of journey of the deceased i.e. on 24.1.2004 four tickets were issued for Barauni to Tata Nagar. Needless to mention that the

deceased was travelling with his three relatives and that corroborates that those four tickets were purchased by the deceased and his family

members. As a matter of fact, the deceased was removed from the railway track to the platform and then to the post mortem house and in course

of handling the body the tickets which were in his possession might have been lost somewhere.

3. Learned counsel appearing for the respondent has opposed the argument and submitted that no ticket was produced either by the companion

passengers of the deceased or by the claimant. Furthermore, the injury was appearing only on the head of the deceased. It is expected that the

deceased might have been adventurous and he was standing on the gate exposing his body outside the compartment and in course of that he

sustained injury due to dash of his head with a poll and therefore, the incident comes within exception covered by proviso (b) of Section 124-A of

the Railways Act, 1989. The injuries inflicted to the deceased was due to his own negligence and therefore, the Tribunal has rightly refused to grant

compensation.

4. I have gone through the lower Court records from which it appears that respondent did not adduce any evidence to show that the deceased was

negligent and he was standing at the gate of the compartment by keeping his head portion of the body outside the compartment and due to that his

head got dashed with a poll. It is nothing but a guess of the respondent and the Tribunal. No evidence to prove this fact has been led and therefore,

the finding of the learned Tribunal is beyond the record, based on assumption and presumption and that cannot be upheld. The document R3 itself

indicates that four tickets were sold against passengers who had to come from Barauni to Tata Nagar and the deceased was accompanying his

three relatives and therefore, the number of passengers who boarded at Barauni in that very train was four. The loss of ticket is always possible in

such accident because the injured/deceased is being removed from one place to another, either for treatment or for other paper formalities and that

too when he is being handled by so many persons who might not be authorised to do so.

5. In view of the discussion made above and the documents available on record, I find that the impugned judgment dated 22.11.2012 passed by

the Railway Claim Tribunal, Ranchi Bench in connection with Case No. TAU/RNC/2010/0098 is not tenable and therefore the same stands set

aside. The respondent is directed to pay Rs. 4 lacs as compensation, as indicated in Schedule 3 of the Railways Accidents and Untoward

Incidents (Compensation) Rules, 1990 and also interest @ 6% from the date of application i.e. from 20.1.2005. The claim amount, as directed

above, must be satisfied by the respondents preferably within 90 days from today. Accordingly, this appeal stands allowed.