

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.4427 of 2013 (O&M)

Date of decision: 25.05.2015

Union of India

..... Appellant

versus

Priya and another

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Ms. Abha Rathore, Advocate for the appellant
Mr. Gorav Kathuria, Advocate for the respondents

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Union of India has challenged the judgment dated 23.5.2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal'), whereby on account of death of Nirmla Devi in an untoward railway incident on 10.2.2009, a compensation of Rs.4 lac along with interest @ 6% per annum from the date of filing of claim petition i.e. 30.7.2010 till the date of order was awarded to the legal heirs of the deceased.

The brief facts as put forward by the claimants before the Tribunal were that on 10.2.2009, Nirmla Devi (deceased) started her journey from Modi Nagar to Ballabgarh by boarding local train from Modi Nagar to Gaziabad and from there at about 11.30 a.m. she boarded passenger train No. GDP-4EMU which reached Ballabhgarh

at 1.30 pm. When the deceased was getting down from the train, the train suddenly started. Deceased fell down, received multiple injuries and died on the same day in B.K.Hospital, Faridabad. It was stated that the deceased was having a railway ticket bearing No.39255010 dated 10.2.2009 from Modi Nagar to Ballabgarh, which was taken into possession by the GRP at the time of personal search of the deceased.

The contention of learned counsel for the appellant is two fold, (i) no railway ticket was found from the person of the deceased and (ii) that the injury of the deceased is self inflicted injury and therefore, her legal heirs are not entitled to damages. So far as railway ticket part is concerned, GRP at the time of search of dead body, prepared personal search memo on the next day i.e. 11.2.2009 and recovered the ticket, the ticket number is also mentioned. It is nowhere mentioned that it was photocopy of the ticket as sought to be pressed before this Court.

The appellant has placed reliance upon the statement of DRM report as well as statement of some witnesses who removed the injured to the hospital and who had stated that the deceased was having no ticket. The official who removed the injured to the hospital have stated that the nurse of the hospital had taken the search of the deceased and no railway ticket was found. However, when the GRP conducted the personal search of the deceased, ticket was found. The GRP was investigating into the matter and therefore, a thorough search was conducted. The nurse who conducted the search of the deceased was not examined in the Court. From the ticket number, it

could be verified whether the ticket is genuine or fake. The applicants/ claimants are not so influential that they will procure the ticket within one day of the death of the deceased and the GRP will collude with them. It being so, there is no error in the judgment of the Tribunal in believing the recovery of the ticket, as mentioned in the recovery memo of the GRP.

Learned counsel for the appellant has contended that the deceased jumped from the train and received injuries, therefore, it will be covered within the definition of self inflicted injuries and is not entitled to compensation under Section 124 A of the Railways Act, 1989. I am of the view that falling down of deceased on the platform itself shows that the train had started moving and atleast part of the train was still on the platform. It could be called a foolish or negligent act of the deceased but it cannot be called as self inflicted injuries.

It being so, I do not find any merit in the present appeal and the same is accordingly dismissed.

25.05.2015
gk

(Kuldip Singh)
Judge