

FAO No. 6166 of 2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 6166 of 2015

Date of Decision: December 10, 2015

Union of India

...Appellant

Versus

Mamta & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vikas Chatrath, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the judgment passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, dated 22.05.2015, whereby, the claim application preferred by the respondents stands allowed granting compensation amounting to ₹4 lacs alongwith interest at the rate of 6% per annum from the date of filing the claim application i.e. 15.07.2013 till the date of award i.e. 22.05.2015 and thereafter, in case the respondents (before the Tribunal) failed to make the payment within a period of 60 days, interest at the rate of 9% per annum from 23.05.2015 till realization of the same.

It is the contention of the learned counsel for the appellants that the Tribunal has erred in allowing the claim application as the first requirement as per the statute is that the

deceased-Sanjeev Kumar should be a *bona fide* passenger and had a valid ticket with him at the time when the alleged accident had taken place in terms of Section 124 A of the Railways Act, 1989. His further contention is that even if he had a valid travelling ticket with him, it was required to be established that the accident had taken place due to negligence, inaction or some act on the part of the Railways or its employees which would have resulted in such an accident having taken place. Apart from that, he asserts that there was no untoward incident when the accident is alleged to have taken place as there is no witness to the same nor has there been any report of any of the passengers to this effect. He, thus, contends that the impugned judgment deserves to be set aside and the claim application of the respondents dismissed.

I have considered the submissions made by the learned counsel for the appellant and with his assistance have gone through the impugned judgment.

It is not in dispute that Gurinder Singh, the person who had dropped the deceased-Sanjeev Kumar at Ambala City Railway Station, has categorically made a statement that he has seen the deceased boarding the train and there was a huge rush in the train. The presumption, therefore, that he would have boarded the train with the ticket is writ large in the light of the judgment of Patna High Court in the case of 'Bhagmanti Devi Vs. The Union of India', in Misc.

Appeal No.740 of 2008, dated 01.05.2014. Merely because at the

time of the search of the body, no ticket has been found on his person would not lead to presumption that he was travelling without a valid ticket or without ticket. The possibility of the ticket having fallen from the person of the deceased during the fall from the train cannot be ruled out.

That apart, as per the post-mortem report, the injuries which have been found on the person of the deceased, primarily are on the head and neck. The doctor in his opinion has observed as under:

“In my opinion, the cause of death in this case is head injury. The injuries are ante-mortem in nature and sufficient to cause death in normal course of life. Possibility of these injuries due to fall from height and fall from train cannot be ruled out.”

A perusal of the above leaves no manner of doubt that cause of death of Sanjeev Kumar was due to fall from the train. It cannot, therefore, be said that the death was not because of an accident which has taken place while travelling.

Merely because no one has chosen to intimate about the untoward incident which has taken place on the way or the chain of the train has not been pulled for stopping the train, it cannot be said that such an incident/accident had not taken place. It may not be out of way to mention here that in these days, people are more self centered specially the passengers who travel in the trains as they do not want their journey to be delayed because of the accident/incident

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which has taken place with a stranger while travelling.

As regard to the judgment relied upon by the learned counsel for the appellant in **Bimla Devi & another Vs. Union of India, 2014 ACJ 2436** is concerned, the same is distinguishable on the facts as in the present case, evidence led by the parties is totally different from the one which were led in the said case.

In view of the above, finding no merit in the appeal, the same stands dismissed.

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In view of the order passed in the main appeal, the present application for staying the operation of the impugned judgment, has become infructuous.

Disposed of as such.

December 10, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**