

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

131

FAO No.6550 of 2015 (O&M)

Date of Decision: October 20, 2015

Union of India

...Appellant

Versus

Rajpal @ Rajpal Singh and another

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Neeraj Madaan, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the award/order dated 18.03.2015 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, by which the claim petition has been accepted, which was filed under Section 124A of the Railways Act, 1989, by granting compensation of ₹4,00,000/- for the death of one Shri Harsh Kumar son of Rajpal alias Rajpal Singh, who was a Mechanical Engineering 2nd year student at Polytechnic College, Patiala. He, on the date when the accident took place, i.e. 01.05.2013 was travelling along with one Shri Gaurav Chauhan AW-2 from Patiala to Saharanpur. A joint ticket was purchased by them.

2. It is the contention of learned counsel for the appellant-defendant that the respondents have not been able to prove their case nor have they been able to bring it within the ambit of Section 124A of the Railways Act, 1989, as no valid ticket has been produced. His further assertion is that no reasons have been assigned as to why they have changed the train and in any case, on the changed train, it is not even asserted that they were having a valid ticket. His assertion is that no discharge summary has been produced nor has postmortem report been produced, which would

establish that he has died because of the untoward accident. The report on which reliance has been placed by the Tribunal is that of the Divisional Railway Manager (D.R.M.). There again it has been concluded that there was no valid ticket produced which would establish that he was a *bona fide* passenger travelling in the train nor has anyone come forth, who would establish that he was a passenger of the train and was travelling by the train at the time of the accident. He accordingly contends that the award passed by the Tribunal cannot sustain.

3. Having considered the submissions made by the counsel for the appellant and on going through the impugned award, I am unable to accept the same as it has come on record that both the deceased Harsh Kumar and Gaurav Chauhan had bought a joint ticket together for Saharanpur from Patiala. The Tribunal has considered this aspect and has concluded that if assuming they were travelling without a valid ticket, the checking staff would check the tickets somewhere between Patiala and the spot of incident and, therefore, at that time, the amount would have been paid to the Ticket Collector, who would have issued him a valid ticket. The said assumption is justified as he was travelling in the train when the incident had taken place. If he was travelling with a valid ticket, it cannot be said that Section 124A of the Railways Act, 1989, would not be applicable. The reasons for the change of the train although may not be specifically mentioned but that is not the requirement of the statute, specially when such a question has not been put to Gaurav Chauhan, who was the eyewitness. He has narrated in detail the occurrence of the incidence and the further details thereof as to how the deceased was initially injured and taken to the hospital at Yamuna Nagar and thereafter shifted to P.G.I., Chandigarh. The medical reports

placed on record clearly establish that the injury was suffered by him while he was travelling and was because of the fall from the train. It is apparent from the medico legal summary of the P.G.I., Chandigarh, which has been procured by the G.R.P.F., Jagadhri, after the death of the deceased that the injuries of the said deceased were declared as grievous in nature. Merely because the postmortem report or the discharge summary from the P.G.I., Chandigarh, have not been produced, cannot be a ground for not accepting the findings recorded by the Tribunal, where the Court has on proper appreciation of the pleadings and the evidence brought on record, come to the conclusion that the accident has taken place while Harsh Kumar was travelling in the train. The report of Divisional Railway Manager clearly establishes that an accident had taken place and Harsh Kumar has, in fact, fallen from the train and received injuries. Conclusion clearly establishes the factum of he being travelling in the train and the only aspect, which has been relied upon by the counsel for the appellant, is that he was not having a valid travelling ticket. That aspect has already been dealt with in the earlier part of the order and, therefore, would not cut much ice.

4. The quantum as assessed by the Tribunal also cannot be said to be excessive which would call for any interference by this Court.

5. Finding no merit in the present appeal, the same stands dismissed.

6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.20460-CII of 2015, stands disposed of as infructuous.

October 20, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE