

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

FAO No.3000 of 2008 (O&M)

Date of decision : December 06, 2016

Sita Devi and others

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Somesh Gupta, Advocate for the appellants.

Ms. Chetna Rao, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This is the first appeal against the judgment dated 02.04.2008 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal').

The brief facts of the case are that Uma Shankar, husband of appellant No.1 and father of appellant Nos.2 to 4 purchased a second class train ticket from Ex. Darphanga Jn. to Rajpura on 13.09.2004. He was travelling alone. Near Rajpura Railway Station, he accidentally fell down from the train and died. His dead body was recovered on 15.09.2004 at about 4.30 a.m. when General Railway Police (for short 'the GRP') received the information about the dead body. The GRP prepared the inquest report. The appellants claim compensation on account of death of Uma Shankar in an untoward railway incident.

The Railway in the written statement has taken the stand that there is no eye witness of the occurrence. Mere lying of the dead body near the railway line does not prove accident with the train. It was denied that deceased was a bonafide passenger as there is no evidence that deceased was travelling on the said ticket.

From the pleadings, following issues were framed:

- “1. Whether the deceased was a bonafide passenger in the train in question at the time of alleged incident?*
- 2. Whether the deceased had died in an untoward incident while travelling in the train within the meaning of Section 123(C) of the Railways Act?*
- 3. Whether the applicants are the sole heirs of the deceased?*
- 4. To what amount, if any the applicants are entitled to receive as compensation?*
- 5. Relief.”*

The Tribunal found some inconsistencies about the father's name of the deceased shown in various documents and therefore concluded that the identity of the deceased is doubtful. It was also found that deceased was identified as unknown person, whereas in identity card, his name is mentioned Uma Shankar S/o Amar Nath. Some of the other witnesses from Bihar identified Uma Shankar S/o Nathni Shah. The Tribunal also found that the ticket was purchased from Darbhanga for Rajpura at 7.50 a.m. The Tribunal considered the time of the train Ex. Darbhanga to Amritsar. While mentioning about the timing of the said train, it is found that two trains, namely Shaheed Express No.4673 and Saryu Yamuna Express No.4649 left at 9.30 a.m. from Darbhanga. They reached Rajpura at 3.51 p.m. on the following day and another train Jan Nayak Express No.5211, which depart

from Darbhanga at 17.40 hours (5.40 p.m.) and passes from Ambala Cantt. near about 21.00 hours (9.00 p.m.) and reach Ludhiana at 22.55 hours (10.55 p.m.) on the following day. It does not have a stoppage at Rajpura. It was observed that none of the train timing were co-incidental or nearer to the time of alleged finding of dead body. It was further found that the dead body was found near to the starter, which is a place, where locomotives stop and generally platform on wayside stations ends there. Therefore, it was observed that at such a place it is easy to cross the track without using footover bridge at Rajpura. It also doubted some of the documents prepared by GRP to hold that the deceased was not a bonafide passenger. The Tribunal further observed that there are different version whether the deceased worked at Rajpura or Rampura Phool.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Firstly, it is to be examined whether the death is due to railway incident, involving railway. The postmortem report makes it clear that death is due to railway accident. The same was opinion of the S.H.O., while preparing the inquest report. Therefore, the death is on account of railway accident. The injuries mentioned in the death report make it clear that right arm of the deceased was fractured and crushed; that right and left legs were crushed from the knee joint; that the right leg was also found amputated. There were some injuries in between the said part of the legs. There were bruises and contusions on the entire body. The nature of the injuries makes it clear that the deceased probably fell from the train when the train was in motion and was sucked under the train with the result that his both the legs

were crushed and his one arm was also crushed. In case, one is hit while crossing the railway line, the injuries are on the face, head and the chest or back. The fact that there were bruises and contusions on the entire body goes to show that Uma Shankar had fallen from the train. Therefore, the injuries make it clear that it is a case of fall from the running train.

Now, coming to the question of identity. Learned counsel for the respondent-railway has not disputed the identity of the deceased Uma Shankar. The fact remains that the deceased was Uma Shankar, husband of appellant No.1 and father of appellant Nos.2 to 4 and they had identified him from the photograph. However, the deceased was cremated in their absence. It is not to be lost sight that the applicants belong to Bihar, therefore, they took time to reach Rajpura. The Tribunal while discussing the timings of the trains, assumed that all the trains are punctual and arrived at the given time on the said day. The Tribunal has not discussed whether on the said day, all the trains were punctual and arrived at the given time. Usually, the long distances trains are late. There is possibility that the train from Darbhanga to Amritsar might get late and the incident took place on 14.09.2004 in the night. The dead body was recovered on 15.09.2004 at 4:30 a.m. by the GRP, meaning thereby that the deceased had fallen from train on the intervening night of 14/15.09.2004. The deceased was otherwise working at Rampura Phool in a rice mill. It is unlikely that he will get down at Rajpura, walk away from railway station and will try to cross the railway line, as suspected by the Tribunal. Usually, it is observed that when the train is to reach the station, the passengers are in hurry and gathered near the door of the compartment. The position of the trains

coming from Bihar side is worst, where large number of labourers come from Bihar to Punjab. Thus, possibility is that Uma Shankar was pushed and accidentally fell down from the train. A ticket was found from the personal search of the dead body. It goes to show that the deceased was travelling in the train and near a place outside Rajpura railway station, he accidentally fell down from the train and died at the spot. There is no reason for the GRP to prepare the wrong documents for a person, who belongs to a far away place like Bihar and is also not an influential person, particularly, when his wife and close family members were not present. He was cremated at Rajpura itself.

Therefore, it is held that the deceased was a bonafide passenger and he died due to untoward incident involving the railway. The findings of the Tribunal on issue Nos.1 and 2 are reversed. There is no dispute about the identity of the applicants. Hence, the findings on issue Nos.3 to 5 are also reversed.

In view of the foregoing discussion, the impugned judgment is set aside. The present appeal is allowed. The respondent is ordered to pay ₹4,00,000/- as compensation to the applicants with interest @ 9% per annum from the date of filing of the claim application i.e. 30.06.2005 till its payment.

(KULDIP SINGH)
JUDGE

December 06, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes