

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

**FAO No.859 of 2010 (O&M).
Date of Decision: 04.05.2016.**

Paramjit Kaur others

....Appellants.

VERSUS

Union of India

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Deepak Gupta, Advocate for the appellants.

Mr. Jagdish Marwaha, Advocate
Special counsel for the respondent-Union of India.

SNEH PRASHAR, J.

Assailing the judgment dated 12.11.2009 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, “the Tribunal”) in Case No.OA-II/94/2005, vide which the claim application of the appellants was dismissed, the appellants preferred the instant appeal.

The facts pleaded by the appellants in the claim application filed by them were that on 03.05.2005 Rachpal Singh, aged 35 years and a labourer by profession, was traveling from Lohiakhas to Phillaur on train ticket No.64310. He was travelling alone and he accidentally fell from the

running train between Noormahal and Nakodar and died. As per Jamatalashi of the dead body, the train ticket was recovered. Pleading that the deceased died in a railway accident, the appellants-legal heirs of the deceased claimed compensation.

The application was contested by the respondent-railways. They denied occurrence of any untoward incident resulting in death of the deceased within the meaning of Section 123(C) read with Section 124 of the Railways Act, 1989 (for short, "the Act"). According to them, the deceased was not a bonafide passenger and a false and concocted story had been presented by the claimants and therefore, the railway was not liable to pay compensation.

On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, the learned Tribunal dismissed the claim application.

Feeling dissatisfied with the judgment dated 12.11.2009, the appellants preferred the instant appeal.

The submissions made by Mr. Deepak Gupta, learned counsel for appellants and Mr. Jagdish Marwaha, learned special counsel for respondent-Union of India have been heard and record perused.

It is an admitted case of the respondent-railways that on 03.05.2005 Prem Singh, Senior Booking Clerk (RW1) was on duty at Railway Station Sidhwan. On that day, train No.2 LNP departed from

Sidhwan at 2:14 p.m. After the departure of the said train, Piara, Gangman on duty, informed him that a dead body was lying in between the tracks near the railway station. He went to the spot and found that the head of the dead body was lying dissected from the remaining part of the body. Leaving the gangman to watch the dead body, he went to G.R.P., Nakodar for giving information, but was told that the area falls within the jurisdiction of G.R.P., Phillaur. He then gave information to Anmol Kumar, Assistant Station Master, Nakodar. The said version of RW1 Prem Singh, Senior Booking Clerk was corroborated by RW2 Anmol Kumar, Assistant Station Master, Nakodar. He added that the station authorities of Noormahal forwarded the message to G.R.P., Phillaur.

The statement of the witnesses of the respondent unequivocally proved that after train No.2 LNP departed from Sidhwan at 2:14 p.m., the dead body of the deceased was found lying in between the tracks near Railway Station Sidhwan. Learned Tribunal did not find the deceased to be a bonafide passenger on the ground that the ticket bearing No.64310 recovered during personal search of the dead body as per the DTC record had been sold on 08.05.2005. The certificate of the Station Master Railway Station Lohiakhas mentioned that ticket Nos.64155 to 64167 were sold from Lohiakhas to Phillaur on 03.05.2005.

The copy of search and recovery memo Ex.A2 prepared by the Investigation Officer of G.R.P. is dated 03.05.2005. It bears signatures of two witnesses and both are officials of G.R.P. In the said memo, it is specifically mentioned that a passenger ticket bearing No.64310, which can

also be read as 64370 dated 03.05.2005 had been recovered from the dead body. Admittedly, on 03.05.2005, when the personal search of the dead body was taken neither the claimants nor anyone related to them or interested in their case was present. The claimants, therefore, had no occasion to manipulate the proceedings being recorded with regard to the untoward incident and the dead body. The respondent did not opt to examine the investigation officer, G.R.P. or either of the witnesses, who had signed the recovery memo. The booking clerk, who sold the tickets on 03.05.2005 or 08.05.2005 was also not examined. There is no expert opinion that the ticket recovered from the deceased was punched on 08.05.2005 and not on 03.05.2005. Since the relevant and important evidence was withheld, there appears no ground to disbelieve the recovery memo prepared by the G.R.P. officials during the course of investigation.

The appellants-claimants pleaded that the deceased was travelling alone when the untoward incident took place. Not knowing any person who had witnessed the accident, the claimants could not name or examine any eyewitness. The sequence of events on its own is sufficient to establish that the deceased, who was travelling by train No.2 LNP on a valid passenger ticket, fell from the train and died. From that, it follows that the deceased was travelling as a bonafide passenger and died in an untoward incident.

In the above premise, the appeal filed by the appellants is allowed and the appellants are awarded compensation to the tune of Rs.4,00,000/- on account of death of Rachpal Singh in an untoward

incident. The respondent-railways is allowed 60 days time to make payment, failing which the appellants shall be entitled to interest at the rate of 12% per annum from the date of this order till realization.

(SNEH PRASHAR)
JUDGE

04.05.2016.
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