

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.7166 of 2011(O&M)

Date of decision: 05.08.2016

Union of India

.....Appellant

versus

Babita and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Neeraj Madan, Advocate for the appellant
Mr.Sandeep Verma, Advocate for
Mr.Sukhdeep Parmar, 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)

Today in Court, learned counsel for the appellant has placed on record letter dated 27.6.2016 which shows that the amount was deposited with the Railway Claims Tribunal, Chandigarh.

This is first appeal filed by the Union of India against the judgment dated 11.8.2011 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal'), whereby the applicants (respondents herein) were awarded compensation to the tune of Rs.4 lacs to be distributed in the manner stated in the said judgment.

Facts of the case are that Devender Kumar deceased accompanied by his wife and brother-in-law was travelling to visit Shri Balaji. First they came to Delhi from Panipat and from there they boarded Puja Express for Bindikui Jn. When the train reached at Rewari railway

station, the deceased Devender Kumar went to answer the call of nature but did not return. Later on, it was found that he had fallen down due to jerk of the train and was run over by another train between Bewal and Karnawas. Deceased was taken to civil hospital, Rewari but succumbed to the injuries. The deceased was having a valid railway ticket.

Respondents railway in reply took the plea that the deceased was not the bona fide passenger. It cannot be believed that he fell down from the train due to jerk. Railway ticket is yet to be linked with the deceased. DRM report is not available and will be produced whenever available.

From the pleadings following issues were framed:-

- 1. Whether the deceased was a bonafide passenger, as alleged?*
- 2. Whether the incident in question is covered within the ambit of section 123(c) read with Section 124-A of the Railways Act?*
- 3. Whether the applicants are the only dependents of the deceased?*
- 4. Relief.*

The Tribunal, after discussing the evidence, allowed the application and awarded the compensation.

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

Before this Court, on behalf of the railway, plea has been raised that the deceased committed suicide. Reference has been made to statement of RW1 Ram Singh driver of train No.2915 Ashram Express, which was coming from Jaipur and going to Delhi, which hit the deceased and caused injuries, resulting into his death. The driver has stated that when his train

started at 8.29 am and when train was at 9/2 KM, then one person suddenly came running from bushes along track and laid down on track before engine. The train was running at 85-90 kmph, therefore, the deceased was run over. 2-3 coaches crossed the body of the deceased. He applied the brakes and stopped the train. The guard and assistant driver of the engine took the body of the person on the train and handed over to Assistant Station Master, Bawal. According to the driver the deceased had committed suicide by laying down on the track. He denied the suggestion that the deceased might have fallen from Puja Express. The statement of Bhagwan Sharma (RW2) train guard of the train, shows that according to him a man suddenly came in front of the engine. The train was stopped. The train hit the said person who was injured. Injured was picked up and was being taken to the hospital but by the time train reached Bawal railway station, the said person had died. He admitted that when injured was picked up, he was alive.

Now, it is to be seen that whether the deceased had committed suicide or fallen from the train?

Deceased admittedly, boarded Puja Express from Delhi railway station and was to go to Shri Balaji and was to de-board at Bandikui jn. He was accompanied by his wife and brother-in-law. At Rewari railway station, he had gone to answer the call of nature. Occurrence took place between Bewal and Karnawas railway stations. It is not possible that the deceased will de-board the train at Rewari railway station and walk several kilometers between Bewal and Karnawas railway stations to commit suicide. Deceased was in the train and he was found on the other track and was run over by the incoming train from Jaipur to Delhi. Therefore, the facts and circumstances suggests that when Puja Express train was travelling between Bewal and

Karnawas stations, the deceased fell down from the train and fell on the adjoining track and was ultimately run over by the train coming from Jaipur. Therefore, it is a case of fall from the train and is an untoward incident. The deceased was otherwise a bonafide passenger and having a valid ticket. Therefore, there is no illegality or infirmity in the impugned judgment.

Consequently, the appeal is found to be without any merit and is dismissed.

The amount already deposited by the railways with the Tribunal be disbursed to the applicants (respondents herein) in terms of the judgment passed by the Tribunal.

05.08.2016*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes/ No

Whether Reportable:

Yes/No