

FAO No. 5821 of 2012

208

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 5821 of 2012

Date of Decision: 10.08.2016

Sumitra Bai and others

... Petitioner

VS.

Union of India

..Respondent

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Subhash Sachdeva, Advocate
for Mr. S.K. Rana, Advocate,
for the petitioner.

Ms. Abha Rathore, 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.)

This is the first appeal against the judgement dated 31.07.2012 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as “the Tribunal”) whereby the application filed by the appellants-claimants for grant of compensation on account of the death of Ranjeet Singh on 20.08.2010 in an untoward incident, was dismissed.

It comes out that on the night of 19.08.2010, Ranjeet Singh (deceased) accompanied by his co-villagers, Satyawar and brother-in-law Bablu, had left their native place Itarsi to visit Vaishno Devi. All three of them boarded the train No. 1077 (Jhelum Express) from Itarsi railway station which was bound for Jammu Tawi. It is stated that when the train reached between the stations Bhaini Khurd and Taraori, due to the heavy jerk of the train, Ranjeet Singh fell down from the train and received multiple injuries and died

FAO No. 5821 of 2012

on the spot. The deceased was having the railway ticket bearing Sr. No. 97190300 dated 20.08.2010 amounting to ₹ 222/- issued by the Itarsi railway station authorities.

In the written statement, the railways had taken the plea that the deceased was not a bonafide passenger of the train. It was stated that it was not an untoward incident and the injuries are self inflicted. From the pleadings, following issues were framed: -

- “1. *Whether the deceased was a bonafide passenger of train at the time of incident?*
2. *Whether the incident is covered within ambit of Section 123 (c) (2) read with Section 124-A of Railways Act?*
3. *Whether the applicant(s) is/are the sole dependent(s) of the deceased?”*

The Tribunal took both the issues No. 1 and 2 together and decided the issue No. 1 against the appellants-claimants and issue No. 2 against the respondents holding that the claimants have failed to examine the eye witnesses namely Satyawar and Bablu. Therefore, the story of Ranjeet Singh falling from the train is concocted. The photocopy of ticket of the train (Ex. A-10) produced by the appellants-claimants was also disbelieved by the Tribunal and accordingly the application was dismissed.

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

So far as the non-examination of the eye-witness is concerned, the fact remains that Ranjeet Singh-deceased was a native of Itarsi and his dead body was admittedly recovered between the Bhaini Khurd and Taraori Stations near the railway track. It goes to show that the Ranjeet Singh-deceased fell from the train otherwise why would he walk all the way from Itarsi to the place

FAO No. 5821 of 2012

of occurrence which was far away from Itarsi to cross the railway line and fall between the track. Thus, the stand taken by the railways in this regard is to be disbelieved. It is apparent case of the fall from the train which is an untoward incident within the meaning of Section 123 (c) of the Railways Act.

So far as the tickets are concerned, admittedly, the appellants produced the copy of the ticket from General Railway Police (GRP) (*Ex. A-14*) meant for two adults and a photocopy of the ticket (*Ex. A-10*) meant for one adult. Tribunal had doubted the veracity of the both the tickets (*Ex. A-10 and A-14*).

I am of the view that though the ticket (*Ex. A-10*) is the photocopy of the ticket and facts and circumstances show that it was not fake. The railway ticket (*Ex. A-14*) bearing No. 97190299 for two adults, issued by the Itarsi railway station on 20.08.2010 at 05:48 hrs amounting to ₹ 444/- and the second ticket for one adult bearing Sr. No. 97190300 which was also for ₹ 222/- also issued on 20.08.2010 at 05:49 hrs which shows that two tickets were issued at the same time by the railways authorities at Itarsi. Since, the tickets are computerized, the railway had the means to verify whether the said tickets are genuine or forged. Mere saying that the ticket *Ex. A-10* was fake is not sufficient in the given circumstances. The railway had never claimed that they have verified the tickets from the computer and the same is found to be forged one. The fact that two tickets issued at the same time from the same railway station goes to show that these tickets are genuine. Even if, in such circumstances, eye witnesses is not examined, the compensation application before the Tribunal is in the nature of enquiry and the Tribunal, can even without examining the eye witnesses, come to its own conclusion. If examined

FAO No. 5821 of 2012

from such angle, it comes out that three persons purchased the ticket and one ticket is claimed to have been lost between railways stations Bhaini Khurd and Taraori after the apparent fall from the train.

Therefore, this Court finds that the deceased was a bonafide passenger and even if original ticket is not produced, the railways had the record of the issuance of said ticket and it was not rebutted by leading evidence of appropriate railways authority that no such ticket is recorded to have been issued from the Itarsi Railway Station.

In these circumstances, the findings recorded by the Tribunal on issue No. 1 are hereby reversed and it is held that the appellants are entitled to compensation as the deceased-Ranjeet Singh was a bonafide passenger of the train and died in an untoward railway incident on 20.08.2010.

Accordingly, the Railways are ordered to pay compensation of ₹4.00 Lakhs to the appellants in equal share, alongwith interest @ 9% per annum starting one month after the date of the occurrence i.e. 20.09.2010 till the date of its payment.

In view of the above, the petition stands allowed.

August 10, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

	✓	
<i>Whether speaking / reasoned</i>	<i>Yes</i>	<i>No</i>
	✓	
<i>Whether Reportable</i>	<i>Yes</i>	<i>No</i>