

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

***FAO No.6063 of 2012
Date of Decision :19.10.2016***

Khushboo Devi

..Appellant

Versus

Union of India

..Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Somesh Gupta, Advocate
for the appellant.

Mr. Banni Thomas, Advocate
for Union of India.

KULDIP SINGH, J. (ORAL)

This is first appeal against the judgment dated 16/17.04.2012 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short “the Tribunal”) vide which the claim application of the applicant-appellant was dismissed.

Applicant-appellant Khushboo Devi is the widow sister of deceased Radhey Sham Thakur. It is stated that on the intervening night of 25/26.07.2010, Radhey Sham Thakur was to go to Haridwar from Ludhiana by train. He purchased a journey ticket from Ludhiana to Haridwar and boarded the train. When the train reached at Km 309/18-20 between Sirhind and Sadhugarh railway stations, Radhey Shyam Thakur accidentally fell down from the running train and died on the spot. Applicant-appellant claims that being widow for the last 16 years, she was dependent upon the deceased.

The Railway denied that the deceased was the bona fide passenger and it was also denied that the applicant-appellant was dependent upon the deceased.

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

While deciding issue No.3 the Tribunal has taken the view that the applicant-appellant has failed to prove that she was dependent upon the deceased. While deciding issue No.1, it was held that deceased was neither a bona fide passenger and nor any ticket was recovered from his person. So far as, the non-recovery of ticket is concerned when somebody falls from the running train the ticket is likely or tends to be lost and the finding in this regard cannot be sustained.

However, I agree with the view taken by the Tribunal that applicant-appellant has failed to prove that she was dependent upon the deceased. Admittedly, under Section 123(b) the widow sister, who is wholly or partly dependent upon the deceased passenger is covered within the definition of the dependent. Therefore, the applicant-appellant was required to prove that she was dependent upon the deceased. Neither in the claim petition nor in the affidavit filed in support of the appeal, the applicant-appellant disclosed that she has a son, who is working in the Christian Medical College and Hospital, Ludhiana. However, during cross-examination, she disclosed that she has got a PAN card and that her son, who is about 14/15 years of age is also working in CMC Ludhiana. The Tribunal has recorded the findings that the applicant-appellant claims to be widowed for last more than 16 years then how his son

can be of age 14/15 years and that a teenage boy cannot work in a hospital like CMC Ludhiana. Since the applicant-appellant admit that her son, irrespective of the age, works in CMC Ludhiana then it is evident that he must be earning some income. In these circumstances, the applicant-appellant was required to disclose that her son is an employee and that what is his income so as to make out whether she is wholly or partly dependent upon the deceased. The applicant-appellant concealed this fact and the fact that she has got a PAN card which shows that she is having sufficient income to maintain herself.

In these circumstances, the Tribunal has rightly held that the applicant-appellant has failed to prove that she was dependent upon the deceased. It being so, the finding on issue No.3 are affirmed. Consequently, issue Nos. 1 & 2 are determined in the favour of the applicant-appellant. Consequently, the appeal is dismissed.

19.10.2016
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(KULDIP SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: No