

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

FAO No.975 of 2012.

Date of Decision: 11.05.2016.

Maru Ram and another

....Appellants.

VERSUS

Union of India and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Mukesh Yadav, Advocate for the appellants.

Mr. Nitin Kumar, Advocate for respondent No.1.

SNEH PRASHAR, J.

Assailing the judgment dated 25.02.2011 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (for short, “the Tribunal”) by virtue of which an application filed by the appellants claiming a sum of Rs.20,00,000/- as compensation was dismissed, the appellants filed the instant appeal.

Precisely, the averments of the appellants in the application for compensation filed by them before learned Tribunal were that Dara Singh was travelling in train no.5RD from Delhi to Rewari and when the train reached in the area of Jakholi railway station, suddenly Dara Singh fell down from the train due to negligence of the railway department/driver of

the train. The deceased was said to be a bonafide passenger as he was having a railway ticket purchased for him by Krishan son of Devi Sahai, resident of village Kerli, District Mahindergarh.

The application for compensation of the appellants was contested by the respondent-railways. The preliminary objection raised by them was that the application was not maintainable under Section 124-A of the Railways Act, 1989 (for short, "the Act") and that the statement of the witnesses recorded by the G.R.P. reveal that the deceased fell down from some unknown train and with a malafide intention to claim compensation, the train number was lateron mentioned. It was also pleaded that the deceased was not a bonafide passenger as no ticket was found in his possession.

On the pleadings of the parties, issues were framed. Both the parties led ocular and documentary evidence to discharge the onus of issues on them. Considering the submissions made on behalf of the appellants and that of the respondent, learned Tribunal finding that the appellants are not entitled to any compensation, dismissed the application vide judgment dated 25.02.2011.

Feeling aggrieved, the appellants-claimants preferred the instant appeal.

The submissions made by Mr. Mukesh Yadav, learned counsel for appellants and Mr. Nitin Kumar, learned counsel for respondent No.1-railways have been heard and record perused.

Learned counsel for the appellants argued that learned Tribunal

erred in holding that the deceased was not a bonafide passenger as he was found to be having no passenger ticket. Relative of the deceased, Krishan, who had come to see him of at Railway Station Delhi had purchased a railway ticket and given the same to him. To substantiate his plea, Krishan tendered his affidavit before learned Tribunal. The deceased was travelling alone and during fall from the train it is possible that the railway ticket which was in possession of the deceased got misplaced. When it was mentioned in the postmortem report Ex.A1 that the deceased had sustained injuries which caused his death in a railway accident, no further evidence was required to prove that Dara Singh lost his life in an untoward incident when he was travelling in the train and, therefore, the appellants, being parents of the deceased, are entitled to compensation.

Admittedly, no journey ticket was recovered during personal search of the dead body by the G.R.P. It is not the case that nothing was recovered from the dead body, rather as mentioned in the 'Fard Peshkardagi' Ex.A4, one purse, one telephone diary, cash of Rs.96/-, three identity cards, one recruitment slip of Delhi Police and a challan form of State Bank of Patiala, all in the name of Dara Singh, were recovered. If all those articles were retrieved from the person of the deceased, it does not appeal to a prudent mind that only a passenger ticket of the deceased got misplaced. Had the ticket been in his possession, it would have also been recovered alongwith other articles.

Moreso, it is the specific case of the appellants that the railway ticket for Dara Singh (since deceased) was purchased by one Krishan son of

Devi Sahai, resident of village Kerli, District Mahendergarh, who had come to see him of at Railway Station Delhi and Krishan had handed over the ticket to the deceased, who had then boarded the train in his presence. The affidavit of Krishan was placed before learned Tribunal, but when the said witness was produced as AW1 by the appellants for cross-examination, he out rightly disowned the affidavit and stated that the affidavit does not bear his signatures. In other words, he completely controverted the story of the appellant regarding the accident. His testimony coupled with the fact that all other articles in personal possession of the deceased were recovered and there was no railway ticket with him, proves that the deceased was not a bonafide passenger. For that reason, it could also not be proved that by which train the deceased was travelling when the untoward incident took place. No witness was examined to atleast prove that the deceased was travelling in a train or had fallen from the train. As such, the finding of learned Tribunal that the incident does not fall in the ambit of Section 123(c) of the Act and also that the deceased was not proved to be a bonafide passenger calls for no intervention.

The claim application of the appellant was rightly dismissed and the appeal being devoid of merit is also hereby dismissed.

(SNEH PRASHAR)
JUDGE

11.05.2016.
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