

The deceased Jagmohan son of late Shri Sat Narayan, who was husband of applicant No. 1 and father of applicants No. 2 and 3 (minors) (appellants herein), belonged to a village in district Unnao, Uttar Pradesh. On 18.5.2011, the deceased is stated to have purchased a train ticket ex. Unnao to Ludhiana and boarded general coach of the train. There was heavy rush in the general coach. When the train reached at KM 292/13-15 in between Rajpura and Sarai Banjara railway stations, the deceased accidentally fell down from the running train and died at the spot. The driver of another train No. 12331 Up informed the station master, which informed the General Railway Police (GRP), which reach the spot and conducted the inquest proceedings.

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In the reply, the Railway has denied that the deceased was travelling in any train at the time of incident and was a passenger much less a bonafide passenger of any train and also denied the incident itself. It was contended that no ticket was recovered from the deceased and that the alleged incident is not covered under the ambit of 'untoward incident'. The injuries, if any, must have occurred due to self negligence and criminal act of the deceased.

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 the ambit of Section 123 (c) (2) read with Section 124-A of the Railways Act ?
3. Whether the applicant (s) is/are the sole dependant (s) of the deceased ?
4. Relief.

The Tribunal after evaluating the evidence came to the conclusion that the inquest report was not properly prepared by the GRP. It was also observed that when a train is running at a higher speed of more than 100 kmph in mid section, a person will not fall just adjoining the railway line. It was also observed that the injuries suffered by the deceased also do not seem to be possible if anyone falls from the train running at high speed. It was further observed that the fact that no one saw the deceased falling down and nobody pulled the chain of the train or raised hue and cry is also hard to believe. It was also found that there was no evidence that the deceased was working at Ludhiana. It was further observed that the Ludhiana-Rajpura is a busy section and many express super

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fast/passenger/goods trains must have passed and nobody noticed the dead body. Therefore, the evidence led by the applicants was disbelieved and the application was dismissed.

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

First of all, this Court is to find out that whether the injuries received by the deceased was due to fall from the train. The dead body was found between Rajpura to Sarai Banjara, adjoining the line. The Tribunal had no record to conclude that the train was at the speed of more than 100 kmph. Sometime it so happens that when a train passes a station, the speed of train becomes slow or sometime it can slow down for other reason also. Therefore, the conclusion that the train was at the speed of more than 100 kmph is unwarranted. In case of fall from the train, it depends upon the manner of fall and the possibility of somebody falling adjoining the railway line cannot be ruled out.

Now, when the injuries are examined, the original inquest report and post mortem report show that the deceased was having a deep injury on the back side of the head, a deep wound on the right side of the head, his left arm was found fractured, three fingers of left hand were found crushed. There were bruises and contusions on the entire body accompanied by marks of rashes. In the inquest report, it was concluded that the injuries are due to railway accident. The same was the conclusion of the doctor in the post mortem report also. Therefore, the injuries coupled with the crushing of the fingers goes to show that the deceased fell from the train and received the abovenoted injuries, which are possible due to fall from the train and crushing a part of the hand under the railway

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wheels, resulting in crushing the three fingers of the left hand. Otherwise, the deceased has no reason to be found lying between Rajpura and Sarai Banjara, whereas he belonged to village Unnao in Uttar Pradesh and was to go to Ludhiana. Therefore, the irresistible conclusion is that the deceased was travelling in the said train and fell from the said train and received the injuries and as a result of the same, he died. The fact that the other passengers did not raise any hue and cry and did not pull the chain of the train or the other train passing through the side of the railway line did not report the matter is irrelevant. It depends upon the sensitivity of the co-passengers as to whether they act in such circumstances or not or whether they noticed a passenger falling from the train. It also depends upon the alertness and sensitivity of the driver and the guard of the other train whether they report the matter to the station master or not.

Now the question is of non recovery of the ticket. The deceased was admittedly coming from Uttar Pradesh and was to go to Ludhiana. In the normal circumstances, he is suppose to carry some cash, ID card or some other document as the same are required for journey and for use during journey or at arrival at Ludhiana. In this case, the personal search memo shows that only a mobile of black and red colour alongwith charger was found. Nothing else was found from the dead body of the deceased. It gives an indication that the deceased might have lost his purse and other belongings after falling from the train. Presuming that the deceased might have lost his purse, identity card and some other documents, which he was likely to carry, the possibility of losing of the railway ticket is also there. Otherwise, during such a long journey from Uttar Pradesh to Ludhiana, there is every possibility that the ticket might be checked.

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Therefore, one will not take the risk of travelling without the ticket.

This Court in Jasbir Kaur and another Versus Union of India through General Manager, 2015 (4) PLR 274 has taken the view that in case of such accident, the possibility of loss of ticket cannot be ruled out.

In these circumstances, the findings of the Tribunal on all the issues are reversed and these stand decided in favour of the applicants. Consequently, the impugned judgment is set aside. The appeal is allowed. The respondents are ordered to pay Rs. 4 lacs compensation to the applicants-appellants with 9% per annum interest from the date of filing of the application i.e. 17.10.2011 till payment.

(KULDIP SINGH)
JUDGE

6.12.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes