

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

FAO No. 1939 of 2014 (O&M)
Date of Decision: 21.10.2016

HARJIT KAUR AND ORS

... Petitioners

V/s

UNION OF INDIA

..Respondent

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

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

 Mr. Banni Thomas, Advocate,
 for the respondent-Union of India.

KULDIP SINGH, J (ORAL)

Impugned in the present appeal is the order dated 03.01.2014 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh vide which the claim application of the appellants for grant of compensation on account of death of Harpal Singh in untoward incident involving the railways was dismissed.

The fact as claimed by the appellants are that on 26.07.2012 Harpal Singh (now deceased), who belong to the village near Beas had to catch a train from Beas Railway Station to New Delhi from where he had to move to Madras in connection with some company's work. When he reached Beas Railway Station, he met his co-villager Daljeet Singh who was also going to Madras for his transportation work. Harpal Singh paid the fair to Daljeet Singh and Daljeet Singh purchased a common ticket for both of them from Beas to New Delhi. Both of them boarded the general compartment of the train. Daljeet Singh got the seat in the coach and Harpal Singh could not get the seat due to which he stood near the gate of the train. When the train reached at K.M. No.338/12-10 between Chawa and Khanna railway station,

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Harpal Singh accidentally fell down from the train and died on the spot. His dead body remained unattended and was discovered only on 28.07.2012. The inquest report was prepared and the post-mortem was got conducted. Daljeet Singh searched for his friend Harpal Singh and when he did not find Harpal Singh, he proceeded further for his destination i.e. Madras. After 10-12 days, when he returned back to Beas, he came to know about the death of Harpal Singh and accordingly produced a ticket before the General Railway Police, (GRP).

In the written statement, the respondent took the plea that the deceased was not a bonafide passenger. No ticket was found from his personal search. It was also claimed by the respondent that the deceased-Harpal Singh did not receive injuries in the alleged untoward incident. The nature of injuries shows that it was a clear cut case of the unauthorized crossing of the railway track which is a criminal neglect on the part of the deceased. From the examination of 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 the Railways Act?*
3. *Whether the applicants are the sole dependents(s) of the deceased?*
4. *Relief."*

The tribunal after examining the testimony of Daljeet Singh, doubted the genuineness of the story put forward by him and authenticity of the fact that the ticket was qua Harpal Singh deceased and Daljeet Singh. The Tribunal relied upon the cross examination in which Daljeet Singh had admitted that he had a friend from Madras with him, who was also there at the railway station. Though, he claimed that he was not to travel with him. It

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was also observed that Daljeet Singh did not try to search for his co-passenger and therefore, the story of travelling together was doubted.

First of all this Court is to examine whether it is a case of untoward incident involving the railways.

The copy of the inquest report (*Exhibit. A-1*) shows that in the site plan, the dead body was found by the side of the railway track. The post mortem report (*Exhibit A-10*) goes to show that it is a case of accident involving railways. In the postmortem report, the Doctor had opined that the said injuries of the deceased Harpal Singh can be sustained in the railway accident. The deceased-Harpal Singh belonged to the village near Beas and it is unlikely on his part that he will go to a far away place between Chawa and Khanna railway station to cross the railway line to be run over by the train. Therefore, in all the probabilities the deceased fell from the running train and received injuries, therefore, it is a case of untoward incident involving railways.

Now, this Court is to examine whether the deceased Harpal Singh was a bonafide passenger of the said train or not?

I have carefully examined the statement of Daljeet Singh which was doubted on the ground that he had reached Beas railways station half an hour before the arrival of deceased-Harpal Singh and that he was having one friend from Madras alongwith him. The cross examination clearly shows that the deceased-Harpal Singh and Daljeet Singh belonged to the same village and being resident of some village, it is likely that both might have become friends while meeting at the Beas railway station. Daljeet Singh clearly denied that his friend from Madras was also to board the train with him.

Daljeet Singh appears to be the truthful witness. Had he wanted to lie, he

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would have denied the presence of his friend from Madras. He admitted that his friend from Madras was there but he was not to board the train with him and was to go somewhere else. Therefore, it cannot be assumed that said friend was also to board the train and that Daljeet Singh had purchased the ticket for himself and his friend. The deceased-Harpal Singh was to go to Madras and so was Daljeet Singh. Both of them belonged to same village. Therefore, there are grounds to believe that the claim of the claimants that both of them might have purchased a common ticket. Since, the deceased-Harpal Singh had to go further from New Delhi to Madras, therefore, it is unlikely on his part to travel ticketless for such a long distance. The claim cases are in the nature of an inquiry and are to be decided on the basis of preponderance of probabilities and the strict rules of criminal jurisprudence cannot be applied in such cases to come to a particular conclusion that the statement of witness is doubtful.

In view of the matter, I hold that the deceased was travelling on a valid ticket and was a bonafide passenger. Consequently, the findings on issues No. 1 and 2 are reversed and the appellants are entitled to compensation. Accordingly, the appeal is allowed and respondents are ordered to pay ₹ 4,00,000/- to the petitioner alongwith interest @ 9% from the date of the filing of the claim application i.e. 21.11.2012 till its payment.

October 21, 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>