

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

FAO No. 1953 of 2014 (O&M)
Date of Decision: 08.11.2016

UNION OF INDIA

.. Appellant

VS.

RAMKALI AND ANOTHER

..Respondent

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

Present: Mrs. Abha Rathore, Advocate,
 for the appellant-Union of India.

Mr. J.P. Sharma, Advocate,
 for the respondent No. 1.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 19.11.2013 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh vide which the claim application filed by the claimants-respondents was allowed and the Union of India was ordered to pay compensation of ₹ 4.00 lakhs alongwith interest @ 6% per annum from the date of institution of the claim application dated i.e 03.05.2010 and in case the payment of compensation is not paid within 60 days, the claimants-respondents are entitled for interest @ 9% on the compensation amount from the date of decision till its actual date of payment.

The brief facts of this case are that Umrao Singh (since deceased), husband of petitioner No. 1 and father of respondent No. 2, who was stated to be working as Guard in a private company at Gurgaon, died on 03.02.2009 by fall from passenger train No. 9RD at platform No. 2 of Khalilpur Railway Station, being run over by the train. It is stated that on 03.02.2009, Umrao Singh boarded the train number 9RD from Gurgaon

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which had a halt at Khalilpur, where he was to de-board the train to meet his married daughter at village Mahaniawas in District Gurgaon. It is stated that when the train reached the Khalilpur railway station, Umrao Singh fell down from the train while de-boarding the train at platform No. 2 due to heavy rush and was being run over and died at the spot.

In the reply, the Railway has denied occurrence of any untoward incident. It was also stated that the Umrao Singh was not a bonafide passenger of the train. From the pleadings, the following issues were framed:-

- 1) Had the deceased was a valid train passenger at the time of accident?
- 2) Had the death of the deceased fall under the provisions of untoward incident under Section 123 (c) (2) of the Railway Act, 1989?
- 3) Has the applicant is the only valid dependent of the deceased?
- 4) Relief.

After appreciating the evidence and hearing both the parties, the claim application was allowed. Against the said judgement, the Union of India has come up in an appeal.

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

In this case, when the personal search of the deceased-Umrao Singh was conducted, a railway ticket dated 20.01.2009 for some other destination was recovered whereas the accident in which Umrao Singh had died, occurred on 03.02.2009. The learned counsel for the petitioner has argued that the ticket dated 20.01.2009 is not claimed to be the ticket

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purchased by the deceased for the present journey and that since the body of the deceased was cut into pieces, therefore, the ticket might have been lost. Recovery memo shows that from the personal search of the body; one purse, containing ₹30/- ; one diary; and one old railway ticket dated 20.01.2009 was found.

Now, it is to be examined whether the ticket could be lost when the other articles including an old ticket was recovered. For this purpose, one has to revert to the injuries which also help in appreciating whether the death of Umrao Singh was due to fall from the train or by some other reasons. Admittedly, as per DMR report of Assistant Station Master, a dead body was found at 10:40 P.M on 03.02.2009 after the train left the station. The post mortem report shows the following injuries: -

- 1) Head is completely separated from trunk/body and clotted blood present on face;
- 2) Right arm is separated from shoulder joint muscle, mass seen protruding from joint;
- 3) Left forearm below elbow separated from shoulder joint grease marks present on clothes and around wound;
- 4) Lacerated wound just below right knee;

I am of the view that since the head was severed from the trunk and right and left arm was severed and other parts of the body were intact, therefore, if other articles like purse and old ticket were found, the railway ticket, if purchased by the deceased, is unlikely to be lost. However, the said injuries are unlikely to be caused as a result of fall from the train. The severance of the head from the trunk goes to show that it is most probably a case of suicide. According to the appellant, the deceased had boarded the

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train at Khalilpur railway station and even if he fell from the train, his head is unlikely to be severed as a result of the run over by the train. Therefore, it is not a case of result of fall from the train and consequently no untoward incident had occurred. In the absence of the railway ticket, it is also held that the deceased was not a bonafide passenger. Therefore, the Railways is not liable to pay any compensation and accordingly the impugned judgement dated 19.11.2013 is set aside and the claim application of the respondents stand dismissed.

In view of the above, the present appeal stands allowed.

November 8, 2016
Suresh Kumar

(KULDIP SINGH)
JUDGE

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