

FAO No. 4692 of 2013

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

FAO No. 4692 of 2013

Date of Decision: 28.07.2016

Krishna Devi and others

... Appellants

VS.

Union of India

..Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. P.R. Yadav, Advocate,
for the appellants.

None for the respondent.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

KULDIP SINGH (J.)

This is the first appeal against the judgement dated 08.04.2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred as “the Tribunal”) vide which the claim application of the appellants was dismissed.

Brief facts of the case are that the deceased Bhopal Singh, who was living in village Mandhia Khurd, Rewari was working in Civil Hospital, Gurgaon. He used to travel daily by train from Rewari to Gurgaon and back. He had obtained a superfast seasoned ticket bearing No. A-63223669 valid from 02.11.2010 to 01.12.2010 with I.D. No. 2214. On 16.11.2010, the deceased left his house for Gurgaon but did not return back. Thereafter, his dead body was found lying on up track i.e. from Delhi to Rewari in between railway stations Gurgaon and Garhi Harsaru at KM No. 32/8 to 32/9.

According to the claim application, the deceased had fallen from one running train, consequently, the claim application had been filed. The respondent-railway has taken the plea that no untoward incident has taken

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place within the meaning of Section 123 (c) read with Section 124-A of the Railways Act. It is also stated that the deceased was not a bonafide passenger of the train and as such the appellants are not entitled to any compensation. The dead body was noticed lying near railway station Gurgaon and it is a case of having got entangled with some moving train. It is also mentioned that the inquest proceedings of the General Railway Police (GRP) are of no consequence and based only on the statement of the witnesses of the alleged incident.

After hearing learned counsel for the parties, the Tribunal dismissed the claim application. The Tribunal had observed that the dead body was lying in middle of the Up track. If a person falls down from the moving train, his body rolls over the ballasts and does not come inside the track. Consequently, the claim was declined.

I have heard learned counsel for the appellants and also considered the case of the respondent. After going through the record of the Tribunal, first of all, it comes out that it is not disputed that the deceased was having railway superfast seasoned ticket which was valid on the date of incident i.e. 16.11.2010. The deceased was living in Village Mandhia, Rewari and was daily commuter from Rewari to Gurgaon and back. Apparently, on account of being a daily commuter, he had purchased the superfast seasoned ticket. The seasoned ticket has not been denied by the Railways. The dead body was found near the Gurgaon Railway Station. It is necessary to examine the injuries as noticed by the Railway Claims Tribunal, which are as under: -

“ Skull broken from back side, right hand broken from elbow and shoulder, left hand broken from shoulder, toes of both the feet amputated and missing from the spot”

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The inquest report further reveals that GRP had examined the site plan and inquest report was prepared under Section 174 of the Criminal Procedure Code, wherein it is mentioned that there are bruises on the body of the deceased. In column No. 12, it is mentioned that it appears to be the case of death by the fall from the train. The GRP is the first investigating agencies which reached the spot, examined the place of occurrence and prepared the site plan. Therefore, observations of the Railway Claims Tribunal are different from the conclusion drawn by the GRP after spot inspection. The Tribunal has taken the stand that if the person fall from the train his body rolls over the ballasts and does not come inside the track. However, it is not true in all the cases. If a person is sucked under the train, his legs are partly chopped off. In the present case, toes of both the feet were amputated and missing from the spot. The deceased was sucked in by the train under the track and was run over. The fact that the skull was broken from the back side, right hand broken from elbow and shoulder, shows that it is a case of fall as a result of which these fractures have occurred.

Therefore, the findings of the Tribunal to the extent that it is not the case of fall from the train are hereby set aside and it is held that the inquest report, the facts and circumstances do indicate that the deceased had fallen from the running train either going towards Gurgaon or while coming back as his dead body was found to be lying in between the Railway station Gurgaon and Garhi Harsaru. Injuries do not show that it is a case of running over by the train when a person is crossing the railway line. Therefore, the present case is a case of fall from the train and is an untoward incident. The deceased was a bonafide passenger of the train and was having valid superfast seasoned ticket at the time of occurrence.

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As such the findings of the Tribunal on the issues No. 1 2 and 3 are hereby reversed. Consequently, the appeal is allowed and the respondents are ordered to pay ₹ 4.00 lakhs as compensation to the appellants from the date of filing of the claim application i.e. 01.02.2011 with interest @ 9% per annum.

July 28, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

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