

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

**FAO No.4438 of 2014 (O&M)
Date of decision : October 06, 2016**

Ram Pal and others

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Amit Jaswal, Advocate for the appellants.

Mr. P.C. Goyal, Advocate 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. (ORAL)

This is the first appeal against the judgment dated 23.10.2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, vide which the claim application of the applicants-appellants for grant of compensation on account of death of Kallu Ram son of Ram Pal, in the alleged railway untoward incident, was dismissed.

The case put forward by the applicants-appellant before the Tribunal is that on 03.11.2010, deceased Kallu Ram accompanied by his friends Balkishore, Harkishore and Om Pal were going from Ambala Cantt. to Muradabad. Balkishore purchased one joint valid ticket for four persons for the Jan Sewa Express train. Due to heavy rush, all the four boarded in different compartments and due to sudden jerk, the deceased fell down from

the train near Dukheri railway station at km 256/6-255/30 and died on the spot. His friends/co-passengers reached Muradabad and thought that Kallu Ram might have gone to his home. However, Kallu Ram did not reach at home. Ram Pal, father of Kallu Ram suspected that his son has been kidnapped by his friends. Therefore, he lodged an FIR No.161 on 19.12.2010 at Police Station Fezaganj, District Badayu, Uttar Pradesh under Section 364 IPC against the friends Balkishore, Harkishore and Om Pal. However, during the investigation of the said case, the police found that deceased fell down from the train between Amabala to Dukheri Railway Station. Balkishore produced the railway ticket No.93559417, dated 03.11.2010 ex. Ambala Cantt. to Muradabad on 12.02.2011 before the GRP.

In the written statement, the Railway took the plea the the deceased was not a bonafide passenger. The story of the applicants-appellants is false and concocted. It is stated that as per statement of Ram Pal before the police, there were five persons, namely Balkishore, Harkishore, Net Ram, Om Pal and deceased Kallu Ram. The same statement was given by Balkishore before the police, claiming that Net Ram had purchased a separate ticket and he purchased one ticket for the four persons. Later on, on 12.02.2011, after the registration of the case under Section 364 IPC against Balkishore etc., the same were produced before the GRP. The dead body of Kallu Ram was cremated as unclaimed by the GRP after five days of the incident. The Railway also doubted the story put forward by the applicants-appellants that all the said persons boarded the different compartments.

From the pleadings, following issues were framed:

“Whether the deceased was a bonafide passenger 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 applicant(s) is/are the sole dependants of the deceased in this case?

4. Relief.”

The Tribunal came to the conclusion that the injuries on the dead body show that it was not a case of fall from the train. The story put forward by the applicant-appellant Ram Pal was not believable as there are many discrepancies. It was also observed that a diary was recovered from the deceased and that the GRP contacted on the numbers mentioned in the diary, who are stated to be relation of the deceased and that they did not arrive to claim the dead body till 05.11.2010. Hence, the claim application was dismissed.

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

The case of the applicants-appellants is that Kallu Ram fell down near Dukheri Railway Station. First of all, it is necessary to examine the injuries to see whether it is a case of fall from the train or the deceased died in a different manner.

The postmortem report on file shows that the face and skull of the deceased were crushed; right and left lower limbs were also crushed and separated from thigh; left upper limb was also found crushed; right upper limb was also separated; one part of the body was also cut out. There was

some black abrasions on the back, arms and both the thighs; ribs of both the sides were broken i.e. 2, 3, 4, 5 and 6 on the right side and 3,4, 5, 6 and 7 on the left side. Larynx and trachese were crushed; lungs were also found torn; intestines were found coming out from the abdomen wall.

If the abovenoted injuries are examined, one comes to the irresistible conclusion that these injuries are not the result of fall from the train but it is the result of running over by the train. All the injuries were ante-mortem in nature. It goes to show that the deceased was either crossing the railway line or voluntarily stood on the railway line and was hit and crushed under the train. The fact that the head and face were crushed and both the legs were separated, goes to show that the deceased probably lay on the railway line or he might have fallen on the railway line in the manner that his face and legs were run over by the running train. In any case, it is not a case of fall from the train. Therefore, the story of fall from the train was rightly disbelieved by the Tribunal.

Now, coming to the question of bonafide passenger, once it is found that the deceased did not fall from the train, the story of bonafide passenger is also to be disbelieved.

Moreover, it comes out that Kallu Ram went missing from 03.11.2010. When he did not reach home, his friends did not even try to search for him and ultimately his father lodged FIR No.161 dated 19.12.2010 at Fezaganj Police Station, alleging that his son had been kidnapped by Balkishore etc. The police investigated the case from 19.12.2010 onward and ultimately submitted the cancellation report on 21.02.2011. During this period, Balkishore did not try to produce the

railway ticket before the Investigating Agency/Fejganj Police nor he put forward his claim that they were travelling in separate compartments/coaches. The railway ticket was ultimately produced only on 12.02.2011 before the GRP i.e after more than three months of the alleged incident. The railway ticket was not produced by Balkishore during the said period before any authority including the police, which was investigating his role in commission of crime under Section 364 IPC. Later on, it was claimed that one Net Ram was also with them and that Net Ram also purchased a separate ticket. However, the said ticket was never produced before the Fezaganj Police. Therefore, the possibility is that one of the five persons did not purchase the ticket and that ticket of four persons purchased by Balkishore was that of Balkishore, Harkishore, Om Pal and Net Ram. It is disbelieved that out of five persons who were travelling together, four of them purchased a joint ticket and one person purchased separate ticket and all of them boarded the train in separate compartments due to rush. Even if there is rush, when one person enters a compartment of the train, then after him, one or more persons can also enter the same compartment. However, when at Muradabad they de-boarded the train and did not find their co-passenger and were being blamed for kidnapping their co-passenger, Balkishore must have searched as to where Kallu Ram has gone. For that purpose, they could contact GRP but they remained silent for two months waiting for registration of the FIR and suddenly when the Fezaganj Police found the dead body of Kallu Ram near Dukheri Railway Station, the story of fall from the train was put forward.

In these circumstances, the story put forward by the applicants-appellants was rightly disbelieved by the Tribunal. The sound reasoning has been given by the Tribunal. Therefore, there is no ground to interfere in the same.

Hence, the present appeal is dismissed

(KULDIP SINGH)
JUDGE

October 06, 2016

sarita	
Whether speaking / reasoned	Yes
Whether Reportable:	No