

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

**FAO No.983 of 2013 (O&M)
Date of decision : August 10, 2016**

Farjana and others

..... Appellants.

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

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

Ms. Chetna Rao, 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 29.05.2012 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal'), vide which the application of the applicants-appellants for grant of compensation on account of death of Yakub in an untoward railway incident, which occurred on 07.06.2011, was dismissed.

The short facts, which are required to be noticed are that Yakub, who was an Electrician by profession had come from Saharanpur to Ambala Cantt. in search of work. On the night of 07.06.2011, he boarded a train from Ambala Cantt. to Chandigarh, after allegedly purchasing a railway ticket. When the train reached between railway stations Ambala Cantt. and Dhulkot at Km No.203/2-3, Yakub accidentally fell down from the train and died. Satish Kumar, key man informed the Station Master, Ambala Cantt. at about 9.40 hours on 08.06.2011 about the recovery of the dead body. A team of General Railway Police reached the spot and conducted the personal search of the dead body. Upon which, one Samsung

mobile phone, one purse, one ticket from Saharanpur to Ambala Cantt., ₹310/- in cash and one voter identity card were recovered from the person of the deceased.

According to the applicants-appellants, the ticket from Ambala Cantt. to Chandigarh was lost in the incident.

The railway, *inter alia*, took the objection that the deceased was not a bonafide passenger as he was not having the ticket. Therefore, the railway is not liable to pay the compensation.

From the pleadings, the following issues were framed:

- “1. Whether the deceased was a bonafide passenger of the 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 applicant (s) is/are only dependent (s) of the deceased?*
- 4. Relief.*

The Tribunal after examining the evidence led by both the parties, came to the conclusion that the deceased was not a bonafide passenger. Hence, the claim application was dismissed.

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

It is not disputed that the death of Yakub is due to an untoward railway incident. However, the moot point is that as to whether the deceased was a bonafide passenger, having a valid ticket from Ambala Cantt. to Chandigarh?

Learned counsel for the applicants-appellants has argued that when a person fell from a train and a ticket, which is a small piece of paper can be lost.

Such possibility is always there but the present case is distinguishable. In the present case, nothing was lost from the person of the deceased. When the dead body of Yakub was found and the personal search was conducted, one mobile phone of Samsung, one purse, one ticket from Saharanpur to Ambala Cantt., ₹310/- in cash and one voter identity card were recovered. It goes to show that no piece of paper was lost. The deceased belongs to Saharanpur and the ticket from Saharanpur to Ambala Cantt. was found intact.

It being so, there is no reason to believe that the ticket from Ambala Cantt. to Chandigarh was lost. The distance from Ambala Cantt. to Chandigarh is short. Therefore, the possibility is that the deceased might not have purchased the ticket.

In these circumstances, it cannot be said that the ticket from Ambala Cantt. to Chandigarh is lost, as claimed by the applicants-appellants. Therefore, there is no illegality or infirmity in the findings recorded by the Tribunal. Accordingly, the findings of the Tribunal are affirmed that the deceased was not a bonafide passenger and the railway is not liable to pay any compensation.

As such, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

August 10, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes