

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

FAO No.988 of 2013.

Date of Decision: 24.05.2016.

Lal Mata Devi through her legal heirs Chandka Parshad and others

....Appellant.

VERSUS

Union of India

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vikram Rathore, Advocate for the appellant.

Mr. Banni Thomas, Advocate for the respondent.

SNEH PRASHAR, J.

Challenge in this appeal is to the judgment dated 28.09.2012 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, “the Tribunal”) vide which the claim application filed by appellant-claimant Lal Mata Devi, was dismissed.

Precisely, the averments of the appellant in the claim application filed by her were that she alongwith her husband Chedi Lal and some other family members had gone to attend a marriage in the family at Barabanki (UP). On 12.06.2011, on their way back, they boarded Kissan Mail train from Barabanki railway station. Due to heavy rush and there being several members of the family, they boarded different compartments. Her husband was sitting in separate compartment from rest of the family.

They had to travel upto Rajpura. On 13.06.2011, when the train reached

Rajpura railway station and they got down from the train, she found her husband missing. Presuming that he might be somewhere else and will reach home at Patiala on his own, she and other family members proceeded to Patiala. In the meantime, they received a telephonic call from Civil Hospital, Fatehgarh Sahib that a person named Chedi Lal had fallen from the train at KM No.314/18-16 between railway stations Sirhind and Sadhugarh near gate No.145-B and had suffered injuries. He was rushed to the hospital for treatment but he died.

The appellant stated that her deceased husband was travelling on ticket No.63138226 dated 12.06.2011 and he was an ex-serviceman and was aged 62 years. He could not get down at Rajpura due to heavy rush and fell down from the train and died.

The claim application was contested by the respondent-railway administration. Occurrence of accident/untoward incident within the meaning of provisions of Section 123(c) read with Section 124-A of the Railways Act, 1989 (for short, "the Act of 1989") was denied. It was also submitted that the conduct of the deceased amounted to suffering self inflicted injuries which resulted in his death and therefore, the claim application was not maintainable. The deceased was also said to be not a bonafide passenger as the appellant had failed to produce the ticket on which he was travelling.

On the pleadings of the parties, issues were framed. Both the parties were given adequate opportunity. Considering the evidence led by the parties and the submissions made on their behalf, learned Tribunal finding that the appellant is not entitled to any compensation, dismissed the

Feeling aggrieved, the appellant-claimant preferred the instant appeal.

The submissions made by Mr. Vikram Rathore, learned counsel for appellant and Mr. Banni Thomas, learned counsel for respondent-Union of India have been heard and record perused.

Indeed, as noticed by learned Tribunal, copy of Fard Jamatalashi on record shows that in the personal search of the deceased one railway ticket bearing no.63138225 ex.Barabanki to Rajpura alongwith an identity card in his name and Rs.500/- in cash were recovered. It is mentioned in the enquiry report of the Divisional Railway Manager that the railway ticket recovered from personal search of the deceased on verification was found to be genuine by the respondent-railway. It was further mentioned in the D.R.M. enquiry report that the ticket was valid upto Rajpura only whereas the incident occurred near railway station Sirhind.

The appellant stated that the deceased was an old man aged 62 years. He could not get down from the train at Rajpura due to heavy rush and fell down from the running train and died. If the contention of the appellant was to be believed, the deceased should have fallen either at the platform of Rajpura railway station or on the track just after crossing railway station Rajpura. The deceased could not have reached near railway station Sirhind, had he fallen from the train due to rush. It was not the case of the appellant that the deceased unintentionally over travelled and then accidentally fell from the train. Moreso, the deceased was an Ex.Army personnel. He, as stated by the appellant, was travelling with number of other family members. Even if he was travelling in a separate compartment,

it does not appear plausible that the family members, who got down at Rajpura, did not try to locate him when they were de-boarding the train.

Importantly, since the occurrence took place near railway station Sirhind, there is an entry in the Daily Diary Book made by Station Superintendent, Railway Station Sirhind as under:-

“found near the line; appears to have fallen down from the moving train with box; was under the influence of liquor; had to get down at Rajpura; train did not stop as was stated by the passenger; sustained injury on head, feet and waist; sent to Fatehgarh hospital”.

The above entry indicates firstly that the deceased when was found lying near the track was under the influence of liquor; secondly that his luggage was also lying with him and he stated that the train did not stop at railway station Rajpura. Learned Tribunal rightly observed that the said facts prove that the deceased had tried to de-board the moving train with his luggage at the place of occurrence when he came to know that he had crossed Rajpura station. There was clear negligence on part of the deceased which amounted to having sustained injuries as self-inflicted and therefore, in terms of proviso to Section 124-A of the Act of 1989 the railway administration was absolved of the liability to pay compensation.

The claim application of the appellant was rightly dismissed by learned Tribunal and the appeal being devoid of merit is also hereby dismissed.

(SNEH PRASHAR)
JUDGE

24.05.2016.
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