

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

**FAO No.502-2016 (O&M)
Date of Decision: 05.04.2016.**

Union of India

....Appellant.

VERSUS

Ram Harsh Chauhan and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. G.S. Bajwa, Advocate for the appellant.

SNEH PRASHAR, J.

Assailing the judgment dated 07.10.2015 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, (for short, “the Tribunal”) awarding compensation to the tune of Rs.4,00,000/- to respondents No.1 to 3-claimants in claim Case No.OA-II/93 of 2013 filed under Section 16 of the Railway Claims Tribunal Act, 1987 (for short, “the Act of 1987”) read with Section 124-A of the Railways Act, 1989 (for short, “the Act of 1989”), the appellant-Union of India, through General Manager, Northern Railway, New Delhi preferred this appeal.

The facts extracted from the impugned judgment are that on 19.05.2011 deceased Arvind Chauhan purchased a railway ticket bearing No.90136251 and boarded a train from Ambala for going to Delhi to meet

his uncle. When the train reached in between railway stations Kesri and Barara, at KM No.239/4-5, the deceased fell down from the train due to a sudden jerk and died at the spot. The parents and minor daughter of deceased Arvind Chauhan filed a petition claiming Rs.10 lacs as compensation against Union of India-appellant. The petition was contested by the appellant, but considering the ocular and documentary evidence led by the parties and the submissions made on their behalf, learned Tribunal partly allowed the petition and awarded compensation to tune of Rs.4,00,000/- alongwith interest at the rate of 6% per annum from 14.05.2013 till the date of payment if made within 60 days or at the rate of 9% per annum after the period of 60 days till the date of payment.

Feeling aggrieved with the judgment dated 07.10.2015, the appellant-Union of India preferred the instant appeal.

The submissions made by Mr. G.S. Bajwa, learned counsel for appellant have been considered.

Learned counsel for the appellant raised two fold arguments, one that learned Tribunal failed to appreciate that the deceased was not a bonafide passenger as per definition of Section 2(29) of the Act of 1989 as the Ticket alleged to be found in possession of the deceased was in fact planted for the purpose of claiming compensation from the railways; the other that although it was the allegation that during the course of journey the deceased fell from the train because of sudden jerk but there is nothing to indicate that anybody else besides the deceased had also suffered any injury, therefore, the story presented by the claimants was nothing but a

concoction.

There appears no force in either of the arguments of learned counsel for the appellant. While discussing issues No.1 and 2 it was observed by learned Tribunal that the memo issued by Station Master Ex.A4 indicated that a dead body was found near Gate No.113-C between railway stations Kesri and Barara on 20.05.2011. It was also mentioned in the memo that the Jamatalashi of the dead body was conducted on the same day which was witnessed by Gangman Ramsukh and ASI Anil Kumar of Ambala Cantt and in the Jamatalashi one railway ticket bearing No.90136251 dated 19.05.2011 issued from Ambala Cantt was recovered. At the time of Jamatalashi of the dead body no family member of the deceased or interested in the claim was present. Subsequently, enquiry conducted by the police also confirmed recovery of ticket during personal search of the dead body. Till the enquiry was completed by the G.R.P., no relative or family member of the deceased was present. In the said set of facts, there is absolutely no merit in the objection of the appellant-railways that the passenger ticket was planted or that the deceased was not a bonafide passenger.

The fact that the dead body was found lying near Gate No.113-C between railway stations Kesri and Barara at KM No.239/4-5 proves that the deceased had fallen from the train. It was mentioned in the written reply by the appellant-railways that Kesri-Barara is a busy route through which approximately within 24 hours more than 50 passengers and goods trains pass. Since it was not the case of the railways that the track was regularly

checked, recovery of the dead body after 24 hours was not a fact which could render the incident doubtful. As regards injury to any other person during the incident, it was not the case that the jerk of the train was so harsh that the passengers travelling in the train would have suffered injuries. The deceased, who may be near the door, due to the jerk fell from the train because of which he died. The deceased was a bonafide passenger and it was a clear case of incident which falls within the ambit of Section 123(C) (2) read with Section 124-A of the Act of 1989.

As such, there being no merit in the appeal, it is dismissed.

(SNEH PRASHAR)
JUDGE

05.04.2016.
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