

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

**FAO No.681 of 2015 (O&M).
Date of Decision: 31.05.2016.**

Union of India

....Appellant.

VERSUS

Dharampal Sharma and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Karamjit Verma, Advocate for the appellant.

Mr. Somesh Gupta, Advocate for the respondents.

SNEH PRASHAR, J.

Assailing the award dated 13.05.2014 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, “the Tribunal”) awarding compensation to the tune of Rs.4,00,000/- to the respondents-claimants in claim Case No.OA-IIU/2013/0073, the appellant-Union of India, through General Manager, Northern Railway, New Delhi preferred this appeal.

Precisely, the facts are that in the claim petition filed by the claimants-respondents they averred that on 04.11.2012 their son Rakesh Sharma (since deceased) was coming from Dhariwal to Amritsar by means of a train. He purchased the ticket from the railway station. As he was about to board the train, the train started moving, he fell down and suffered

incident. The Station master issued memo to G.R.P., Batala and reached at the spot. The injured was taken to General Hospital, Batala for treatment from where he was referred to Hargun Hospital, Amritsar, but at the said hospital he was declared brought dead. Nothing was recovered during personal search of the deceased because his body had been crushed and his clothes had torn into pieces. His travelling ticket got lost during the accident.

The petition was contested by the appellant-railways. The appellant denied that the deceased was a bonafide passenger or that the incident during which he died was an 'untoward incident' within the provisions of Section 123(c) of the Act, 1989. It was also submitted that as per the report of Divisional Railway Manager, no person had witnessed the deceased falling from the train while trying to board the same. Even the train guard or the driver of the train had no information about the incident.

On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, the learned Tribunal allowed the petition and awarded compensation to the tune of Rs.4,00,000/- to the claimants with interest at the rate of 6% per annum from the date of filing the petition till the date of decision. The Railway administration was allowed 60 days time to make payment failing which the claimants were held entitled to recover the said amount with interest at the rate of 9% per annum from the date of order till realization.

Feeling aggrieved, the appellant-Union of India preferred the

The submissions made by Mr. Karamjit Verma, learned counsel for the appellant and Mr. Somesh Gupta, learned counsel for the respondents have been have and record perused.

At the very outset, learned counsel for the appellant argued that the findings of learned Tribunal that the deceased was proved to be a bonafide passenger or that the claimants were entitled to compensation under the provisions of Section 124-A of the Act, 1989, are wrong and unsustainable. No eyewitness of the accident was examined by the claimants. RW1 Gurdeep Singh, Sub Inspector, R.P.F. Batala stated that during investigation by him he collected Daily Diary Report register consisting of entry in respect of the accident; Jamatalashi memo and postmortem report. As per the Jamatalashi memo, no ticket was recovered on personal search of the dead body. He also stated that the driver and the guard of the train had no knowledge about the incident and the train was not stopped by any person. RW2 Jaswant Singh, Railway Guard, Amritsar, who was on duty on train No.74676 ex-Pathankot to Amritsar also stated that no untoward incident had taken place at Dhariwal railway station. The train reached at Dhariwal railway station at 20.43 hours and left at 20.45 hours. He kept watching the platform till the train left and could see no incident taking place as alleged by the claimants. It was after 5-6 months of the alleged incident that RPF enquired about the incident from him. He also mentioned that the maternal uncle of the deceased was working as ASI in GRP and was trying to pursue the incident. Learned counsel asserted that the statement of Chandermoli, Station master and Jaswant Singh, Railway Guard, coupled with the fact that no passenger ticket was recovered during

'bonafide passenger' nor he died due to the injuries suffered in an accident as alleged by the claimants.

There appears no force in the arguments of learned counsel for the appellant. Admittedly, a memo with regard to the incident was issued by the Station master Dhariwal to GRP, Batala. As stated by RW1 Gurdeep Singh, Sub Inspector, he recorded the statement Ex.A6 of the Station master on duty at Dhariwal railway station wherein he admitted that after the train had passed, some passengers informed him that the deceased while boarding the train had fallen on the platform. He went to the spot and sent the injured to the hospital for treatment. The said statement of the Station master was sufficient to prove occurrence of the incident at the platform of Railway Station Dhariwal.

No doubt, as pleaded by appellant-railways, no ticket was recovered during personal search of the dead body but that was not enough to conclude that the deceased was not a bonafide passenger. As per the Jamatalashi memo, nothing was recovered on personal search of the dead body. Even his purse was not recovered. In the death report Ex.A1, it was mentioned that the legs of the deceased were crushed; there were injuries all over his body and his clothes were torn and lying here and there. The accident took place at 8.45 p.m. in the night. Considering the condition of the dead body and of the clothes he was wearing, it can be concluded that the ticket purchased by the deceased had got lost during the accident. Moreso, the statement of Station master on duty at Dhariwal station proves that the passengers, who had witnessed the accident, had told him that the deceased while trying to board the train had fallen down due to heavy rush.

witnessed the incident and had given him the information. If he was silent on that aspect, the claimants could not be expected to name or examine the eyewitness who undoubtedly were not known to them. It had also come in the statement of the Station master that on receipt of information from the passengers he had gone to the spot, had found the deceased lying on the platform in an injured condition and had sent him to the hospital for treatment. There is no other version of the appellant-railways with regard to the incident during which the deceased suffered injuries and died.

In the above premise, it is held that the findings of learned Tribunal that the deceased was a 'bonafide traveller' and had suffered injuries in an 'untoward incident' and therefore, the claimants are entitled to get claim from the appellant railways, call for no intervention.

There being no merit in the appeal, it is dismissed.

(SNEH PRASHAR)
JUDGE

31.05.2016.
jitender