

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

FAO No. 8854 of 2014 (O&M)
Date of Decision: 04.10.2016

SUSHILA KAUR

.. Appellant

VS.

UNION OF INDIA

..Respondent

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. Somesh Gupta, Advocate,
 for the petitioner.

 Ms. Kulwant Kaur Kahlon,
 for the respondent-Union of India.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 14.07.2014 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh vide which the claim application filed by Sushila Kaur-present appellant was dismissed.

Brief facts of the present case are that Aman, son of the applicant/appellant, who belonged to Saharanpur, Uttar Pradesh, used to sell cleaning chemicals at Ambala. For this purpose, he used to travel from Saharanpur to Ambala and back on daily basis. On 13.02.2013, Aman alongwith his friend, Harjit Singh, went to Ambala from Saharanpur for selling of cleaning chemicals. When they were coming back to Saharanpur, they purchased a common ticket and boarded a train from Ambala. At Jagadhari Railway Station, Aman alighted from train to fetch tea and eatables. When he was about to board the train, the train started moving, due to which Aman slipped from the train and got injured. Somebody, informed the Station Master, Jagadhari that Aman is lying injured between line No. 1

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and 2. Thereafter, injured Aman was removed to the Civil Hospital, Jagadhari where he succumbed to the injuries. The General Railway Police (GRP), Jagadhari prepared the inquest report and later on post-mortem was also done. It is further stated that Harjit Singh, friend of Aman, thought that he (Aman) might have boarded some other coach and when he reached Saharanpur he searched for Aman and thereafter thinking that Aman must have gone home, he also went to his home. However, later on, it was found that Aman had died and his mother was informed accordingly. On 25.02.2013, i.e. after 12 days, Harjit Singh accompanied by Sushila Kaur-mother of the deceased-Aman produced the railway ticket before the GRP authorities bearing No. 16178063 Ex. Amabala to Saharanpur meant for two passengers.

In the written statement, Railways has taken the stand that the deceased-Aman was not the bonafide passenger of the train and it was not the case of untoward incident as defined under Section 123 (c) of the Railways Act, 1989 (for short 'the Act'). Moreover, no ticket was recovered from the personal search of the deceased-Aman. Since the ticket was produced after 12 days of the incident, therefore, it was claimed that it was a planted ticket. Moreover, on the said ticket, name and number of the train was not mentioned.

The Railways Claims Tribunal, Chandigarh Bench, Chandigarh, has framed the following issues for determination: -

1. *“Whether the deceased was a bonafide passenger of 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 Railway Act?*

FAO No. 8854 of 2014(O&M)*3. Whether the applicant (s) is/are only dependent(s) of the deceased?”*

The Railways Claims Tribunal, Chandigarh Bench, Chandigarh disbelieved the statement of co-passenger-Harjit Singh on the ground that as a natural conduct, Harjit Singh might have searched for his friend Aman. In case of friendship, it is not possible that a person who is travelling with his friend on a combined ticket would not make enquiry about his missing friend. He, in fact continued his journey upto Saharanpur and left for his home without waiting for his friend and did not even enquire about him during all these days and surprisingly after 12 days of death of Aman, he produced a ticket. Therefore, Railway Claims Tribunal, Chandigarh Bench, Chandigarh doubted that Harjit Singh might have procured the ticket of some other passenger and planted the same claiming that it was his own ticket. Hence, it was held that deceased-Aman and his friend Harjit Singh were not bonafide passengers and it was not an untoward incident.

First of all it is to be examined whether it is an untoward incident involving the Railways or not ?

The admitted facts of the case are that the deceased-Aman belonged to Saharanpur and used to travel Ambala and back, for selling of cleaning chemicals. Jagadhari falls between Ambala and Saharanpur and it is not the case of either party that deceased-Aman used to go to Jagadhari. Now, as per the DRM report, the Station Master, Jagadhari, was informed that one injured person is lying between line No. 1 and 2 of Jagadhari railway station. The injured was removed to the Civil Hospital, Jagadhari for his treatment. During the treatment, the injured succumbed to the injuries. At that time, no railway ticket was found from the said injured. Later on, he was

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identified as Aman. The railway ticket was produced on 25.02.2013 and on verification of the same it was found that it was issued by the railway authorities. The railway ticket on file shows that it was purchased at 3.52 P.M. from Ambala railway station. Therefore, even if, the train number and name is not mentioned it is supposed to be meant for the train which is to start from Ambala to Saharanpur after the said time.

The injuries of the deceased as found in the post-mortem report are reproduced below:-

<i>EXAMINATION OF EXTERNAL INJURIES</i>			
<i>Sr. No.</i>	<i>Injuries</i>	<i>Marked</i>	<i>Injury number</i>
1.	<i>Swelling and deformity of the left arm above the elbow, on exploration humerus fractured.</i>	<i>Yes</i>	<i>5</i>
2.	<i>Multiple abrasions over the chest wall B/L with underlying ribs of No. 4,5,6,7 of both sides fractured with B/L Haemothorax with collapsed lungs.</i>	<i>Yes</i>	<i>6</i>
3.	<i>Lacerated wound of size 2 inch X 1 inch X Bone deep over forehead 3 inch above the right eye. On exploration underlying bone fractured. SDH, EDH, intra parenchymal bleed present</i>	<i>Yes</i>	<i>1</i>
4.	<i>Splint on the right forearm present. Multiple abrasions of various sizes and shapes present over right forearm. On exploration of the right forearm both bones Radius, Ulna fractured.</i>	<i>Yes</i>	<i>2</i>
5.	<i>Multiple abrasions of various shape and size over on the right leg.</i>	<i>Yes</i>	<i>3</i>
6.	<i>Multiple abrasions of various shapes and sizes associated with swelling over the left ankle joint with underlyign fracture of the left ankle joint.</i>	<i>Yes</i>	<i>4</i>

The above noted nature of injuries shows that these injuries are most probably result of fall from a moving object. The deceased was found

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lying in the injured condition between line No. 1 and 2 and was not run over by the train which shows that he fell from the train between line No. 1 and 2. Since, the train was moving, the injured suffered the above noted injuries which are normal in such like circumstances. Therefore, I am of the view that this is a case of fall from the moving train and thus untoward incident involving railways.

The next question would arise whether the ticket produced in this case is genuine or planted one and what is the effect of testimony of Harjit Singh ?

Harjit Singh was stated to be the co-passenger and the ticket so produced by him was meant for two persons. According to Harjit Singh, he thought Aman might have boarded some other coach after he got down at Jagadhari and even after reaching at Saharanpur when he did not find Aman, he thought that he might have gone home. It only reflects the casual attitude of Harjit Singh, who was also a regular passenger of the said train. He used to accompany Aman in selling cleaning chemicals at Ambala. Now, the question would arise whether due to the casual attitude of Harjit Singh, the Tribunal is justified in assuming that the ticket produced in this case is fake? If the natural circumstances are taken into consideration that when 17-18 years old son of the claimant dies, she is likely to be under some shock for some days. Herein, the death of Aman occurred on 13.02.2013 and the completion of last rituals also takes about 10 days. Therefore, the production of ticket after a period of 12 days after the death, cannot be called extraordinary period for production of such ticket. The claimant is not such influential lady that she will be in a position to procure such a ticket from

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some co-passenger. She accompanied Harjit Singh when the ticket was produced before the GRP authorities. Therefore, late production itself is no ground to assume that it was procured from some other co-passenger unless there is any convincing evidence in this regard.

Therefore, it is held that deceased-Aman died as a result of an untoward incident involving the railways and since the said ticket is proved to be valid, therefore, he is taken to be a bonafide passenger of the said train.

Consequently, the present appeal is allowed and the impugned judgement dated 14.07.2014 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh is set aside. The respondents are directed to pay ₹4,00,000/- as compensation to the claimant within two months alongwith interest @ 9% per annum from the date of filing of the claim application i.e. 03.07.2013 till payment.

In view of the above, the appeal stands allowed.

October 4, 2016

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No