

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

FAO No. 1939 of 2003 (O&M)

Date of Decision: 05.04.2017

RAM RATTI AND OTHERS

... Appellants

VS.

***UNION OF INDIA THROUGH GENERAL MANAGER, NORTHERN
RAILWAY, BARODA HOUSE, NEW DELHI.***

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Rakesh Gupta, Advocate,
 for the applicants-appellants.

 Mr. Sanyam Malhotra, Advocate,
 for the respondent.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 27.03.2003 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short “the Tribunal”) vide which the claim application filed by the applicants-appellants for grant of compensation was dismissed.

Brief facts of the present case, as alleged by the applicants-appellants, are that on 02.07.2000, Krishan Kumar (since deceased) was stated to have reached at platform No. 2 of Narwana Railway Station to board the train No. 346 Dn. He purchased a ticket from Narwana to Jind. When Krishan Kumar tried to board the train, the train started moving and he slipped from the train. As a result of the same, he was run over by the train and died at the spot. The railway ticket of the deceased-Krishan Kumar was also stated to have been lost during the said incident.

FAO No. 1939 of 2003 (O&M)

In the reply, the Railway has taken the stand that the deceased-Krishan Kumar was not the passenger of the train much less *bona fide* passenger as no ticket was recovered from him. It also denied that deceased fell from the running train. It was also stated that he did not died in an untoward incident involving Railways rather he died due to self invited injuries as a result of his own criminal act while crossing the track from the non-platform side.

From the pleadings, the following issues were framed: -

- “1. *Whether Krishan Kumar was a bonafide passenger of the train in question? OPA*
2. *Whether Krishan Kumar died as a result of an untoward incident as defined in Section 123 (c) of the Railways Act? OPA*
3. *Whether the applicants are only dependents of the deceased? OPA*
4. *To what amount of compensation the applicants are entitled?*
5. *Relief.”*

After going through the evidence and hearing both the parties, the Tribunal decided issue No. 1 in favour of the applicants-appellants holding that deceased-Krishan Kumar was a *bona fide* passenger of the train. As regards issue No. 2, it was decided that the incident does not fall within the ambit of Section 123 (c) of the Railways Act, 1988. Consequently, the claim application was dismissed.

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

It comes out that the applicants-appellants have examined two witnesses; Rajinder Singh and Satbir Singh. Both the witnesses were

FAO No. 1939 of 2003 (O&M)

disbelieved by the Tribunal on the ground that according to Satbir Singh he did not see what happened on the off-side of the platform. Rajinder Singh was also present at platform No. 2 and according to him, the deceased tried to board the train from off side, therefore, he also could not see what actually happened.

The Tribunal has believed the statement of the Driver and the Guard of the train in question. The statement of the train driver, namely Amar Singh, shows that according to him, when the train was entering from platform No. 1 at Narwana railway station, it was at the speed of 12 KM/hour. One person was trying to cross the track and while came running, he stuck against the engine from non-platform side and was run over and got injured. He informed the Guard. The injured was thereafter removed by the General Railway Police (GRP). According to him, nobody had fallen from the train at the Narwana railway station on that day. In the cross-examination, he had categorically stated that he had given information regarding the said incident to Guard and to Assistant Station Master. He had seen the injured after the incident. The injured was conscious and was lying crushed under the engine. He denied the suggestion that the deceased died as a result of the injuries received by him when he was trying to board the train. The Guard of the train had also made similar statement but according to him he was informed by the Driver and he himself did not see the incident.

Now, two contrary versions of the incident have come. Men can lie but not the documents. In order to see as to how the deceased died, one has to fall back upon the site-plan prepared by the GRP. While preparing the inquest report, GRP arrived at the spot and conducting the inquest

FAO No. 1939 of 2003 (O&M)

proceedings. The site-plan shows that there are three tracks between the platform No. 2 and 3. According to the applicants-appellants, the deceased was to board the train from platform No. 2. The dead body was shown as half inside and half outside the track with part of his abdomen and legs were inside the track, which means that the deceased was cut from the abdomen. The postmortem report also shows that the dead body was cut from the lower abdomen side. Admittedly, the train was still at the platform and had stopped after the incident.

Now, a question would arise that when the deceased has purchased the ticket to board the said train and the train was to start from platform No. 2 and between platform No. 2 and 3, there are three railway tracks; one each touching platform Nos. 2 and 3 and one in the middle, then how the deceased came from the off-side of the track touching platform No. 2. He could reach the place where his dead body was found only if he crosses the track touching platform No. 3 and the middle track and tried to go to platform No. 2. Otherwise, there is an over-bridge from which one could go from platform Nos. 3 to 2. Therefore, there is no reason that the deceased could come to off-side of the platform No. 2 to board the train.

Both the witnesses; Rajinder Singh and Satbir Singh were at platform No. 2 and if the deceased has purchased the ticket, he should have been on the platform No. 2 and not at the off-side of platform No. 2. When someone fall from a slow moving train, half of his body cannot come under the engine or boggie, as in the present case. The dead body is also lying towards one end of the platform which supported the statement of Amar Singh, Driver of the train that deceased-Krishan Kumar came running and

FAO No. 1939 of 2003 (O&M)

tried to cross the railway track touching platform No. 2 and was run-over by the engine. Had the deceased-Krishan Kumar tried to board any boggie, even from the off-side, his body should have not been found somewhere near one end of platform.

In view of the foregoing discussion, I am of the view that the Tribunal has rightly believed the statement of Amar Singh, Driver that the deceased was trying to cross the railway line and was run-over by the engine. Crossing of railway line is itself a criminal offence under the Railways Act, 1988.

In the circumstances, claim of the applicants-appellants was rightly declined by the Tribunal. There is no merit in the present appeal, hence, the same is dismissed.

April 5, 2017

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No
<i>Whether Reportable</i>	:	✓ Yes	/	No