

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

FAO No. 4400 of 2007(O&M)
Date of Decision: 02.02.2017

RANI MITTAL AND OTHERS

.. Appellants

VS.

UNIOR OF INDIA

..Respondent

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

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

 Mr. Karminder Singh, Advocate,
 for the respondent -UOI.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 18.07.2007 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (herein after referred as “the Tribunal”) vide which the claim application filed by the claimants-applicants was dismissed.

The brief facts of this case as stated by the learned counsel for the appellants are that Kamlesh Kumar Mittal, husband of the appellant No. 1 and father of appellants No. 2 and 3, was travelling in a train No. 4711 Intercity Express on 12.06.2002 from Patiala to Rampura with second class train ticket. When the train stopped at Barnala Railway Station, Kamlesh Mittal de-boarded the train to fetch drinking water. After taking water, when the deceased tried to board the train, it started moving and resultantly, he fell down on the track and died at the spot.

In the reply, the respondent has taken the stand that Kamlesh Mittal is not a bonafide passenger of the said train. It was stated that no such untoward incident or railway accident within the meaning of Section 123 (c)

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has taken place. No ticket was found from the personal search of the deceased. From the pleadings, the following issues were framed:-

- 1) Whether the deceased died as a result of untoward incident?*
- 2) Whether deceased was a bonafide passenger of the train?*
- 3) Whether the applicants are the only dependents of the deceased?*
- 4) To what amount of compensation the applicants are entitled?*
- 5) Relief.*

The Tribunal, after hearing both the parties and disbelieving the medical evidence, has dismissed the claim application of the applicants-appellants. Against the said judgment, the appellants have come up in the present appeal.

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

First of all, this Court is to examine whether deceased fell down from the train. The deceased-Kamlesh Mittal, admittedly was travelling from Patiala to Rampura in train No. 4711, Intercity Express on 12.06.2002. The inquest report reveals that there were injuries on the forehead, on the left side of the head and abrasions on the entire body. The left hand was cut and crushed. The nature of injuries itself suggest that this is a case of fall from the train. The deceased fell down at Barnala Railway Station. He did not belong to Barnala. The medical report also shows that the deceased-Kamlesh Mittal, aged about 45 years, was brought to Civil Hospital, Barnala on 12.06.2002 at 9 P.M. by Harnek Singh, Constable, General Railway Police (GRP), Barnala. It was also recorded in the intimation of the GRP that the accident occurred at

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Barnala Railway Station. Later, it comes out that the injured-Kamlesh Mittal had succumbed to the injuries at 11.30 P.M. Therefore, it is apparent that the deceased-Kamlesh Mittal was picked up by the GRP officials and taken to the hospital, which also strengthens the case of the appellants that the said accident had taken place at Barnala Railway Station only.

Now coming to the crucial question that ticket was not found from the personal search of the deceased, it comes out that from the personal search nothing was being recovered. It is the case of the petitioner that the deceased was travelling from Patiala to Rampura and he de-boarded the train to fetch water at Barnala Railway Station. Apparently, while going to fetch water, he might not have taken his belongings with him. Therefore, in the first instance, the possibility of the ticket being placed in the belongings of the petitioner was there. Secondly, there is a possibility that the train ticket might have been lost during the process of falling from train and removal to the hospital. The deceased belong to respectable family of Patiala and it is unlikely that he was travelling ticketless in the train. In the circumstances, the possibility of loss of ticket is there.

In view of the foregoing discussion, I am of the view that deceased-Kamlesh Mittal died as a result of an untoward incident involving the Railways and he is taken to be a *bona fide* passenger of the said train.

Consequently, the present appeal is allowed and the impugned judgment dated 18.07.2007 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh is reversed. Accordingly, the respondents are directed to pay ₹4,00,000/- as compensation to the claimants within two

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months alongwith interest @ 9% per annum from the date of filing of the claim application i.e. 12.08.2003 till actual payment is made.

In view of the above, the appeal stands allowed.

February 2, 2017

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

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