

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

**FAO No.144 of 2009 (O&M)
Date of decision : May 16, 2017**

Smt. Jasbir Kaur and others **..... Appellants**

Versus

Union of India and another **..... Respondents**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rakesh Kumar Sharma, Advocate for the appellants.

Mr. Vikas Chatrath, Advocate for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This is the first appeal against the judgment dated 31.07.2008 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal'), vide which the claim application of the applicants-appellants was dismissed.

It is the case of the applicants-appellants that Tarlochan Singh (now deceased), husband of applicant-appellant No.1 was employed as Driver with M/s Aggarwal Trading Company at Ambala City. On 26.11.2004, the deceased was to go from Amabala Cantt. to Saharnpur. After purchasing a ticket, he boarded the local train from Ambala Cantt. to Saharanpur. Due to heavy rush and jerk, he fell down between Ambala Cantt. and Dukheri Railway Station at KM 260-10/12 on the down line and died at the spot.

The Railway has taken the stand that no ticket was recovered from the deceased. Therefore, he was not a bonafide passenger. The

untoward incident involving the railway was also denied. It was stated that

Smt. Surjit Kaur, mother of the deceased was also necessary party. She has not been made even as proforma respondent.

From the pleadings, following issues were framed:

“1. Whether deceased was a bonafide passenger of the train?

2. Whether deceased died due to untoward incident?

3. Whether applicants are the only dependant of the deceased?

4. To what amount of compensation, if any, is the applicants entitled?

5. Relief.”

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

The deceased was working at Ambala City. The accident took place few kilometres away from Ambala Cantt. towards Dukheri Railway Station, which is nearby. The search memo shows that on the personal search of the dead body, one purse containing ₹50/-, one diary containing some telephone numbers and one driving licence of the deceased were recovered. However, no ticket was recovered from the dead body.

The Tribunal found the statement of alleged co-passenger as doubtful regarding his presence at the spot. In addition to this, the inquest report reveals that the dead body was cut into two pieces from little above the waist. The lower portion was lying in the middle of the track and upper portion was lying at some distance outside the track. The case of the applicants-appellants is that the deceased fell down from the train.

I am of the view that if a passenger falls from a running train, he could not be cut into two pieces from the middle, as has happened in the present case. Even if, the body of the falling passenger got sucked under

the train, even then half of the body cannot be crushed under the train, so as to cut it into two pieces. It goes to show that the deceased was probably lying on the railway track and his body cut into two pieces with the result that lower part of the body remained inside the track and upper part of the body remained outside the track when run over by a train. Therefore, it is an apparent case of suicide. The place of the accident is just outside Ambala Cantt. towards Dukheri railway station.

In the circumstances, this Court comes to the conclusion that it is neither a case of untoward incident involving railway nor the deceased is proved to be a bonafide passenger. Therefore, I concur with the findings recorded by the Tribunal.

Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

May 16, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes