

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

**FAO No.4080 of 2009 (O&M)  
Date of decision : May 16, 2017**

**Nirbhay Singh**

**..... Appellant**

**Versus**

**Union of India**

**..... Respondent**

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

**Present:-** Mr. Somesh Gupta, Advocate for the appellant.

Mr. Rahul Garg, Advocate for the respondent.

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 29.05.2009 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal'), vide which the claim application of the applicants-appellants was dismissed.

Brief facts of the case are that on 15.04.2007, Bhagwan Kaur (now deceased), aged about 55 years, mother of the applicant-appellant, was coming from Mour to Bareta. On her request, co-passenger Gopal Singh purchased two tickets from Mour to Bareta bearing Nos.93304 and 93305 for second class. When the train reached near Bareta railway station, Bhagwan Kaur accidentally fell down from the train and died.

In the reply, the respondent-railway has taken the stand that the alleged co-passenger Gopal Singh is a planted witness. The deceased

suffered injuries due to her own fault. From the pleadings, following issues were framed:

- “1. Whether the deceased was a bonafide passenger, as alleged?*
- 2. Whether the incident in question is covered within the ambit of Section 123 (c) read with Section 124-A of the Railways Act?*
- 3. Whether the applicant is the only dependant of the deceased?*
- 4. Relief.”*

The Tribunal while deciding issue No.1, held that the tickets were planted. Though, while deciding issue No.2, it was held that the deceased died due to fall from the train. Consequently, the claim application was dismissed.

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

The railway has not filed any appeal against the adverse findings recorded on issue No.2 that the deceased died due to fall from the train. Therefore, the said findings have now become final. As such, this Court will confine to the findings recorded on issue No.1 as to whether the tickets were planted or not?

The Tribunal had pointed out the contradiction in the statement of co-passenger Gopal Singh and railway memo. It took the view that since the accident took place on 15.04.2007 and in the inquest report, the name of Gopal Singh was not mentioned and recovery memo was prepared on the next day i.e. 16.04.2007. Therefore, the tickets have been planted.

I am of the view that the view of the Tribunal is incorrect.

Gopal Singh had produced two tickets, bearing Nos.93304 and 93305 from

Mour to Bareta railway station. It is not the claim of the railway that the said tickets are forged one. Admittedly, both the tickets were produced by Gopal Singh and taken into possession by the GRP on the next day i.e. 16.04.2007. Even if, it is assumed that there is contradiction in the statement of Gopal Singh and the railway memo, wherein he has stated that he had handed over the tickets to GRP within one and half hour of the incident and the tickets were taken in to possession on the next day of the incident, it cannot be given as such important so as to dismiss the claim of the applicant-appellant. The work of the police is well known. Even if, the dead body is found and some evidence is handed over to the police, they take their own time to complete the formalities and in preparing the memos. Therefore, the statement of co-passenger Gopal Singh may be correct that the tickets were handed over to the GRP, immediately, after the incident and the formal memo was prepared on the next day of the incident. However, the fact remains that not only one but two tickets were produced by Gopal Singh, one for himself and another for the deceased. If the applicant-appellant has procured and planted the tickets, he could procure only one ticket. Therefore, the version of co-passenger Gopal Singh was wrongly disbelieved by the Tribunal. Thus, it cannot be believed that the tickets were procured one.

Hence, the findings recorded by the Tribunal on issue No.1 are reversed and findings recorded on issue No.2 are affirmed to the effect that the deceased died due to fall from the train. As such, the applicant-appellant is entitled to compensation.

In view of the foregoing discussion, the present appeal is allowed. The respondent is ordered to pay ₹4,00,000/- as compensation to

the applicant-appellant along with interest @ 9% per annum from the date of filing of the claim application i.e. 16.07.2007 till the date of payment.

May 16, 2017

sarita

(KULDIP SINGH)  
JUDGE

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|-----------------------------|-----|
| Whether speaking / reasoned | Yes |
| Whether Reportable:         | No  |