

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

**FAO No.1791 of 2012 (O&M)
Date of decision : March 06, 2017**

Union of India

..... Appellant

Versus

Smt. Pinki Devi and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. K.K. Kahlon, Advocate for the appellant.

Mr. Subhash Sachdeva, 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)

Union of India has preferred the present appeal against the judgment dated 01.12.2011 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, vide which the claim application filed by the claimants-respondents was allowed and the Railway was ordered to pay ₹4,00,000/- as compensation to the claimants-respondents.

The short facts of the case are that on 18.01.2010, deceased Dharmbir Singh was coming from Bhiwani to Bawani Khera. One Ram Pal accompanied him on Bhiwani Railway Station, where Dharmbir Singh-deceased purchased one ordinary 2nd class passenger ticket from Bhiwani to Bawani Khera Railway Station and boarded the train No.2 RH. While travelling between Bhiwani to Bawani Khera, the deceased accidentally fell from the train near Sue Railway Station. On the next day, his dead body was found by the gang-man, who intimated the Station Master about the same.

The inquest report was conducted and nothing was recovered from the

personal search of the deceased.

It was claimed by the Railway that the deceased was not a bonafide passenger. He had not purchased any ticket. The story was also denied. From the pleadings, following issues were framed:

“1. Whether the deceased was a bonafide passenger 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 Railways Act?

3. Whether the applicants are the sole dependants of the deceased?

4. Relief.”

The Tribunal came to the conclusion that from the statement of Ram Pal, the ticket was purchased and that the burden was upon the Railway to prove that no ticket was purchased. Accordingly, it was held that the deceased was a bonafide passenger and as such, the compensation was awarded.

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

The inquest report shows that there are certain injuries, which points to the death due to fall from the train. The right leg of the deceased was found fractured from thigh. There were injuries on the waist, knee joint, back and other body parts. There were contusions and abrasions on the entire body which shows that the deceased fell from the train and probably rolled over, resulting in injuries on all the parts of the body. The recovery memo (Ex. A-4) shows that nothing was recovered from the deceased and the dead body was found only on the next day. It cannot be believed that a person, who had gone from his village did not carry any paper or currency.

The fact that nothing was recovered from the dead body goes to show that

the belongings of the deceased went missing due to accident. Therefore, there is no illegality or error in the findings recorded by the Tribunal that the deceased was a bonafide passenger. Moreover, it is observed that when a person falls from the train and rolls over, the ticket and other belongings may be lost.

It being so, there is no merit in the present appeal. As such, the same is dismissed.

(KULDIP SINGH)
JUDGE

March 06, 2017

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Whether speaking / reasoned Yes

Whether Reportable: No