

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

**FAO No. 6606 of 2011 (O&M)
Date of decision: 20th February, 2017**

Suman and others

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Paul S. Saini, Advocate
for the appellants.

Mr. R.S. Mamli, Advocate
for the respondent.

KULDIP SINGH J. (ORAL)

This is first appeal filed against the judgment dated 23.05.2011 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh vide which the claim application filed by the claimants/appellants was dismissed.

As per the case, put forth by the claimants, Bhim Singh (now deceased) father of the claimants, after purchasing a ticket on 16.07.2008 boarded MEMU train ex. Sonapat to Narela. He had informed the claimants that he was going to Narela and would return in the afternoon. The said-Bhim Singh (now deceased) accidentally fell down off side of platform from train due to jerk and jolt, pull and push of passengers and received severe injuries and died on the spot. The employer of the deceased, Hoshiyar went to the house of deceased to call him where he was informed by deceased's brother Vijay Kumar that deceased had left for Narela. On reaching the station, a crowd was found near railway track and the dead body of Bhim Singh was identified. Then Hoshiyar Singh informed about the same to the

family of the deceased. The deceased was traveling in the train with a valid 2nd class passenger ticket bearing No. 04135 dated 16.07.2008 ex. Sonapat to Narela.

In the written statement the respondent took the plea that deceased was not a bona fide passenger. It was denied that the deceased fell from the train and the plea was also taken that the deceased has not purchased any ticket.

The Railway Claims Tribunal held that deceased had fallen from the train, however, regarding the ticket, the findings were recorded that the deceased was not having any ticket. Consequently, the claim application was dismissed.

I have heard the learned counsel for the parties and perused the records carefully.

The short question arising before this Court is as to whether a ticket was recovered from the personal search of the deceased? It comes out that Investigating Officer, Chatter Singh of General Railway Police was examined as Court witness as CW-1, there are two search memos of the deceased i.e Ex.C3/A and Ex.C4/A. The Tribunal has relied upon Ex.C4/A.

I have examined photocopy of both the recovery memos, placed on file. A comparison of the same shows that both the memos are same, bearing same writing and bearing the name and signatures, thumb impressions and witnesses are same and in fact Ex.C3/A is the exact copy of memo (Annexure C4/A) with the only difference that serial No.1 regarding recovery of ticket from Sonapat to Narela No. 04735 has been added. The serial No.1 on the memo Ex.C4/A has been converted serial No.2 and Serial No.2 has been converted to Serial No.3. In this way, the memo

Ex.C3/A is in fact an altered memo of Ex. C4/A. It is apparent that, Ex.C4/A was prepared earlier in time and later on addition at serial No.1 was made and serial No. 1 was corrected to 2 and 2 was corrected to 3 at Ex.C3/A. Even in the Court, Chatter Singh, Sub-Inspector, GRPS has admitted that Memo Ex.C4/A is correct one, in which there is no mention of the recovery of the ticket. He also admitted that Ex.C3/A addition was made later on, though the mistake might have been occurred due to mistake in placing carbon while writing upon the same.

I am of the view that it is not a mistake due to carbon. Ex.C4/A is the original memo and Ex.C3/A is the altered memo. Therefore, the Tribunal has rightly discarded the altered memo C3/A. The original memo goes to show that one bangle of brass and one mala were recovered and no ticket was recovered from the deceased. The deceased fell at the station itself and there is no possibility of loss of the ticket also. Since, the train was at the station when the accident took place and as per the claim made in the application, the family of the deceased had also arrived at the station, therefore, there is possibility of procuring a ticket. Hence, there is no illegality in the findings recorded by the Railway Claims Tribunal, accordingly, no interference is required to be made.

Accordingly, the appeal is dismissed.

20th February, 2017

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(KULDIP SINGH)

JUDGE

Whether speaking / reasoned

Yes

Whether Reportable

No