

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.4706 of 2012(O&M)

Date of decision: 20.01.2017

Mandeep Kaur and others

.....Appellants

versus

Union of India

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Somesh Gupta, Advocate for the appellants
Mr.Nitin Kumar, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

This is first appeal against judgment dated 9.4.2012, passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal'), vide which, application of the applicants/appellants for grant of compensation was dismissed.

As per claim of the applicants, on 12.2.2010 Balkar Singh son of Rulda Singh, now deceased, boarded a train from Nabha to Ambala Cantt in search of the work. The deceased was a small shopkeeper at Nabha. He was travelling alone in the train. He had purchased a journey ticket from Nabha to Ambala Cantt before boarding the train. When the train reached at KM 266/25-26 between Ambala City and Ambala Cantt, deceased accidentally fell down from the running train and died at the spot. His dead body was found lying between railway tracks. It is also claimed that GRP

prepared an inquest report. One bag, purse and ticket of the deceased was lost in the incident.

Railway in the reply took the plea that the deceased Balkar Singh was not a bona fide passenger of the train. No ticket was recovered from the dead body. It was also denied that the deceased was travelling on any train. Therefore, he was not a bona fide passenger and no compensation is payable to his legal heirs.

From the pleadings, following issues were framed:-

“(1) Whether deceased was a bonafide passenger at the time of incident?”

(2) Whether the incident is covered within ambit of Section 123(c)read with Section 124-A of the Railways Act?

(3) Whether the applicant(s) is/ are the sole dependents of the deceased?

Relief.”

The Tribunal after considering the facts, came to the conclusion that there is no evidence that the deceased was travelling on any train as a passenger. No ticket was recovered from him. It was also found that from the search of the deceased, some articles i.e. one purse containing pocket diary, cash of Rs.310/-, six revenue stamps and a sim of reliance number 9023499224 was recovered. The said fact was not disclosed by the applicants. It was also noticed that the place of accident is thickly populated area having two residential colonies and it is being used by the public as unauthorized crossing of the railway line. Dead body was noticed by a driver of goods train at 9.45 P.M. on the said date. Therefore, it was concluded that there is no evidence that the deceased was travelling on the train and fell down from the train. The Tribunal also took into consideration the injuries received by the deceased to arrive at such conclusion.

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

Learned counsel for the appellants has relied upon the conclusion drawn by the SHO that it is a case of fall from the train. However, when the postmortem report and inquest report are examined, it goes to show that the head and face of the dead body were found crushed. Left arm was found cut from the shoulder. Right arm was fractured from the elbow. The left leg was found cut from thigh. The right leg was found cut from the foot and there were injuries on the hips, waist and the entire body. Site plan shows that the dead body was lying in the middle of the track on downline. As per death certificate, the place of death is near the railway crossing. Position of the dead body shows that the dead body was lying in the middle of the track of downline and one arm is lying just outside the said downline track towards Southern side. The another limb of the deceased i.e. right arm was found lying outside the track towards Northern side. The train from Nabha to Ambala Cantt runs on the downline. If a passenger falls from the running train, he is likely to fall outside the downline and even if it is assumed that part of the body is sucked under the train due to vacuum created by the speed of the train, then only part of the body will be cut. Here the arm of the deceased is lying on the one side of the track and leg is lying on the another side of the track and in the opposite direction and dead body is lying just in the middle of the track. Place of accident is near railway crossing. There is Vikas Nagar colony on the one side of the place of accident and Housing Board colony of the Ambala City on the other side. Therefore, the injuries when examined with the site plan goes to show that it is not a case of fall from the train coming from the

Nabha to Ambala Cantt. It is a case when a person hit by a train and run over and the dead body is thrown in the middle of the track. It goes to show that the deceased was neither travelling on any train nor fell down from the same. Rather it is a case of running over by the train of a person who was on the railway track at the time of accident. Further from the personal search of the deceased, currency notes and other articles were found but no ticket was found. It also shows that the deceased might have come from Nabha and might have de-boarded at Ambala City and was probably in the process of unauthorized crossing the railway track, when he was hit by a running train. It is not denying fact that there is heavy traffic on the said railway line, it being the trunk line.

It being so, I am of the view that there is no illegality or infirmity in the findings recorded by the Tribunal that it is not a case of fall from the train and that the deceased was not a bona fide passenger. As such, the findings of the Tribunal are affirmed. Consequently, the present appeal fails and is dismissed.

20.01.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
Yes