

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

FAO No. 2340 of 2013 (O&M)

Date of Decision: 01.05.2017

MEERA DEVI AND OTHERS

... Appellants

VS.

***UNION OF INDIA THROUGH GENERAL MANAGER, NORTHERN
RAILWAY.***

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Somesh Gupta, Advocate,
 for the appellants.

 Mr. Sandeep Vermani, Advocate,
 for the respondent.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 04.03.2013 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (herein after referred as “the Tribunal”) vide which the claim application filed by the claimants-applicants was dismissed.

The brief facts of this case as narrated by the applicants-appellants are that Prem Kumar S/o late Sh. Ram Avtar, resident of Village & Post Office Nandagaon, Bhiwani, is stated to have gone to Jammu on 24.05.2011 in connection with some work. On 31.05.2011, when he was to come back from Jammu to Bhiwani. For that purpose, he purchased the journey ticket Ex. Jammu to Ambala Cantt. and boarded the train. When the train reached at KM No. 386/32-34 between Phillaur and Ladowal Railway Stations, he fell down from the running train and got seriously injured. One Keyman, Parmod Singh found injured-Prem Kumar at 08.20 a.m. and removed him to the hospital. However, he succumbed to injuries at 10.45 a.m. Thereafter, GRP conducted the inquest proceedings. From the personal

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search of the injured-Prem Kumar, no journey ticket was recovered. According to the applicants-appellants, ticket, cash and suitcase carrying the clothes of the deceased-Prem Kumar, were lost in the incident.

In the reply, the respondent has taken the plea that said deceased-Prem Kumar was not a *bona fide* passenger of the train in question as no valid journey ticket was found from his personal search. It is also denied that he was travelling in the said train. It is stated that it is the case of getting entangled with the moving train and no such untoward incident or railway accident within the meaning of Section 123 (c) read with Section 124-A of the Railway Act has taken place. From the pleadings, the following issues were framed:-

- 1) *Whether the deceased was a bona fide passenger of the train at the time of incident?*
- 2) *Whether the incident is covered within the ambit of Section 123 (c) (2) of the Railways Act?*
- 3) *Whether the applicant(s) is/are the sole dependent(s) of the deceased?*
- 4) *Relief.*

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

The Tribunal, after hearing both the parties and disbelieving the medical evidence, has dismissed the claim application of the appellants. It was held that the deceased was not a *bona fide* passenger as no ticket was recovered from the deceased. It was also observed that five more train had passed after passing of Jammu Tawi towards Ambala Cantt. at 06.36 hours, and no driver of the said five trains have noticed the injured-Prem Kumar lying injured. It was further observed that the wife of the deceased-Prem

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Kumar has stated before the Railway Protection Force (RPF) that her husband-Prem Kumar had left home on 30.05.2011 for Jammu. Therefore, deceased-Prem Kumar could not come back from Jammu on 31.05.2011. It was also stated that the injured was found lying on the Dn line which is going towards Ludhiana whereas Jammu Tawi Express passed only on the up line.

The perusal of the file shows that the wife of the deceased-Prem Kumar has taken the stand that her husband left home on 24.05.2011 for Jammu in relation to some work. Even in the affidavit before the Tribunal, she has made the similar claim. However, before the RPF, she had stated that her husband left home on 30.05.2011 for Jammu. Therefore, the observation of the Tribunal regarding wife of the deceased-Prem Kumar stating that he left home on 30.05.2011 are factually incorrect.

The Tribunal has observed that the Dn. line towards Ludhiana is meant for train going towards Ludhiana from Jammu Tawi going towards Ambala has to pass from Ludhiana. Therefore, the said train has to pass through Dn. Line where the injured-Prem Kumar was found by the Keyman at 08.20 hours. If the driver of the other trains, passing after 6.36 hours to 8.20 hours did not notice the injured, it cannot be said that the injured was not lying at the spot. He was found lying in injured condition and was removed to hospital by the Keyman where he succumbed to injuries at 10.45 hours.

Now, coming to the nature of injuries, it comes out that there were injuries at two places on the head, on both the arms and on remaining part of the body there were bruises and contusions with blackening of the coal ashes. From these facts, it is proved that it is only the case of fall from the running train and is not a case of run over by the train. The injured-Prem

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Kumar otherwise belongs to Bhiwani and he has no reason for crossing the railway line between Phillaur and Ladowal Railway Station.

So far as the non-recovery of the ticket is concerned, deceased-Prem Kumar fell down from the running train and all his cash/luggage was lost except one piece of paper bearing some telephone number. He was removed by the Railway official to the Hospital. Therefore, during the fall from the train or during the process of his removal to the hospital, the ticket, which is only a simple piece of paper could be lost. Therefore, on account of non-recovery of the ticket, it cannot be said that he was a ticket less passenger. He was to travel from Jammu Tawi to Ambala Cantt. which quite a long journey and normally for such a long journey one cannot take risk to travel ticketless.

In view of the foregoing discussion, I am of the view that deceased-Prem Kumar died as a result of an untoward incident involving the Railways and he is taken to be a *bona fide* passenger of the said train.

Consequently, the present appeal is allowed and the impugned judgment dated 04.03.2013 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh is reversed on issues No. 1 and 2. Accordingly, the respondents are directed to pay ₹4,00,000/- as compensation to the applicants-appellants within two months alongwith interest @ 9% per annum from the date of filing of the claim application i.e. 22.09.2011 till actual payment is made.

May 1, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

		✓	
<i>Whether speaking / reasoned</i>	:	Yes	/ No
			✓
<i>Whether Reportable</i>	:	Yes	/ No