

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

**FAO No.1313 of 2014 (O&M)
Date of decision : February 08, 2017**

Union of India

..... Appellant

Versus

Smt. Sunita Rani

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Abha Rathore, Advocate for the appellant.

Mr. Ashwani Arora, 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 an appeal against the judgment dated 18.07.2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, vide which the claim application filed by the respondent was allowed and the Railway was ordered to pay ₹4,00,000/- as compensation with simple interest @ 6% per annum from the date of filing of claim application i.e. 18.01.2012 till the date of the passing of the judgment. The Railway was allowed 60 days time to make payment, failing which the respondent was entitled to simple interest @ 9% per annum from the date of the passing of the judgment i.e. 18.07.2013 till its realization.

As per the case of the applicant-respondent, Vijay Kumar was travelling in a train from Saharanpur to Ambala on the intervening night of 25/26.07.2011. When the train reached Dukheri, Vijay Kumar fell down from the train and died.

The Railway in the written statement took the plea that the deceased was not a bonafide passenger. No ticket was recovered from the dead body. However, a mobile phone, cash of ₹30/- and a piece of paper having some contact number were recovered from him. It is also claimed that as per postmortem report, the injuries found on the dead body are self inflicted injuries while unauthorized crossing over the railway track. It is stated that the place where the dead body was recovered is near the Samadhi of Peer Baba. Therefore, it is a case of unauthorized crossing of railway track. From the pleadings, the following issues are 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 applicant(s) is/are the sole dependents of the deceased in this case?*
- 4. Relief.*

The Tribunal after recording the evidence of both the parties came to the conclusion that the statement of co-passenger Saroj Bala is reliable to the effect that a ticket was purchased by the deceased. It was held that the deceased fell down from the train. The claim of the UOI was that Saroj Bala was produced by way of additional evidence and is not dependable witness.

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

Admittedly, in this case from the personal search of the deceased, a mobile phone, cash of ₹30/- and one piece of paper were

recovered. The intimation by the Station Master, Ambala Cantt. to S.H.O. GRP, Ambala Cantt. shows that it has been reported by Sh. Singh Ram, Trackman that one dead body is lying out of the track near line between Dukheri-Ambala Cantt. at KM No.256/5-7. It goes to show that the dead body was found outside the railway track.

Now, coming to the injuries, the postmortem report shows lacerated wound on the left thigh and knee joint with crushing bones and muscles. There was an injury on the forehead. There was a fracture on the right shoulder and the multiple abrasions. From the injuries, only one conclusion can be drawn that it is a case of fall from the train and not a case where one is hit by the running train. Therefore, the conclusion drawn by the Tribunal is correct that the deceased fell from the train.

So far as the statement of Saroj Bala is concerned, though she was produced by way of additional evidence but the mere fact that she was produced by way of additional evidence is no ground to disbelieve her statement. Saroj Bala belongs to Village Kandla, Tehsil Shamli and District Muzaffarpur, whereas the applicant belongs to Raipur Rani, Tehsil and District Panchkula. Saroj Bala has stated in her examination-in-chief that she had purchased a ticket from Kandhla to Saharnpur and boarded the train along with Vijay Kumar and her grandson Harsh @ Kaka. After reaching Saharanpur, they got down from the train and went to the ticket counter to purchase two tickets for onward journey to Ambala Cantt. Saroj Bala was standing near the counter with her grandson Harsh @ Kaka and gave ₹50/- to Vijay Kumar to purchase two tickets for herself and Vijay Kumar. Thereafter, Vijay Kumar purchased two tickets. The age of Harsh @ Kaka

was 7 years and she was told that no ticket is required to be purchased for him.

I am of the view that the Tribunal after going through examination-in-chief and cross-examination of the witnesses held that a valid ticket was purchased by the deceased. Though a mobile phone, cash of ₹30/- and a piece of paper are stated to have been recovered from the personal search of deceased Vijay Kumar but the nature of injuries shows that after fall from the train, the deceased violently fell on the ground and in this process, the possibility of loss of ticket is there. Therefore, there is no ground to differ with the finding recorded by the Tribunal believing the statement of Saroj Bala that a valid ticket was purchased by the deceased.

Learned counsel for the appellant has relied upon the judgment Hon'ble the Supreme Court delivered in *“Vinod Kumar Arora v Smt. Surjit Kaur”, 1987 AIR (SC) 2179* as well as in case of *“Abubakar Abdul Inamdar (dead) by LRs. v Harun Abdul Inamdar”, 1995(5) SCC 612*, which are regarding rent and succession respectively. The Railway Claims Tribunal cases are in the nature of inquiry and stand on different footing. Therefore, I concur with the findings recorded by the Tribunal.

Accordingly, there are no merits in the present appeal and same is dismissed.

(KULDIP SINGH)
JUDGE

February 08, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No