

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

FAO No. 3480 of 2013 (O&M)

Date of Decision: 15.02.2017

SILAVIYA BHUIYAN AND ANOTHER

... 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. Karminder Singh, Standing Counsel,
for the Union of India-respondent.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 14.05.2013 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short “the Tribunal”) vide which the claim application filed by the appellants for grant of compensation was dismissed.

Brief facts of the present case, as alleged by the appellants, are that on 11.05.2011, Piyus Bhuiyan (Since deceased) accompanied by his co-villager-Rasika Mandik and relative-John Topano was coming to Jalandhar City from Hatia, Railway Station (Jharkhand). They purchased three separate computerized tickets from Hatia railway station to Jalandhar City. One ticket was given to Rasika Mandik and two tickets were kept by John Topano. They boarded the Tata Muri Express train. When the train reached Delhi, they all alighted from the train to take tea and then again boarded the train. While re-boarding the train, due to heavy rush, John

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Topano and Rasika Mandik boarded from the front side of the coach whereas, Piyus Bhuiyan (deceased) boarded from the back side and was standing at the gate of the coach. When the train reached at KM 137/21, in between Nilokheri and Taraori railway stations on 13.05.2011, Piyus Bhuiyan (deceased) accidentally fell from the running train and died at the spot. John Topano and Rasika Mandik did not come to know about the incident at that time. After reaching Jalandhar city, when they could not find Piyus Bhuiyan (deceased), they informed William Bhuiyan, son of the Piyus Bhuiyan about the same. Thereafter, they started searching for Piyus Bhuiyan and reached Delhi. On 16.05.2011, they came Kurukshetra railway station and contacted the GRP. When the GRP showed them the photographs and clothes of Piyus Bhuiyan, they identified him. John Topano produced one railway ticket alongwith identity card of the deceased-Piyus Bhuiyan before the GRP. It is claimed that remaining two tickets were taken by the ticket checker of the platform at the Jalandhar City Railway Station.

In the reply, the Railway has taken the plea that the deceased was not the passenger of the train, much less *bona fide* passenger and also denied that the deceased fell from the running train. It is also denied that John Topano and Rasika Mandik were also travelling in the said train.

From the pleadings, the following issues were framed: -

- “1. *Whether the deceased was a bonafide passenger of the train 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 sole dependents of the deceased in this case?*
4. *Relief.”*

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After going through the evidence and hearing both the parties, the Tribunal doubted the statements of William Bhuyian, son of the deceased- Piyus Bhuiyan and that of John Topano and came to the conclusion that the deceased was not the *bona fide* passenger. It was also concluded that the deceased had fallen from Tata Muri Express train and infact was run over by some other train while roaming around the track. Consequently, the claim application of the appellants was dismissed.

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

The deceased-Piyus Bhuiyan admittedly belonged to the village Dhaliwal Kadaria, Jalandhar City. The dead body of the deceased-Piyus Bhuiyan was found near Kurukshetra railway station. The deceased-Piyus Bhuiyan has no job to go near Kurukshetra railway station and it is hard to believe that the deceased-Piyus Bhuiyan was roaming around Kurukshetra railway station which is at far away place from his residence. The inquest report on file shows that the dead body was lying on the side of the railway tracks at KM 137/23 between the Nilokheri and Taraori railway stations near Kurukshetra. There are agricultural fields on both sides of the railway tracks. Therefore, the conclusion of the Tribunal that the deceased might have been run-over by the train assuming that he was roaming, has to be ruled out. If the driver and guard of the train which passed from the said tracks after the incident did not notice the dead body or after noticing, did not inform the authorities, the deceased-Piyus Bhuiyan is not to be blamed for the same.

In order to examine, whether it is a case of fall from the running train or it is a case of run-over by the train, the nature of injuries are very

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material. The inquest request report read with post-mortem report shows that the post-mortem was conducted on 13.05.2011 itself and the time between the death and post-mortem is 24 hours. The nature of the injuries shows that there were injuries on the right side frontal region of forehead and parietal region of the head, injuries on arm and elbow region and on other parts of the body, which give a clear indication that it is a case of fall from the running train. The report of the S.H.O., GRP, Kurukshetra dated 21.05.2011 shows that after investigation, he had concluded that the deceased had died due to fall from the running train. The conclusion of the SHO is supported by the medical evidence. Therefore, it has to be held that the deceased had fallen from the running train. In a case for compensation, minor discrepancies are to be ignored. The fact that two co-passengers raised hue and cry only after reaching Jalandhar railway station does not mean that their statements are incorrect. One of the co-passengers, John Topano has clearly stated that on reaching Jalandhar railway station, they informed the son of the deceased- Piyus Bhuiyan and they started searching for him. Meaning thereby that on finding that deceased-Piyus Bhuiyan is missing, immediate search was started. They went to Delhi and then came to Kurukshetra railway station. The identity of the deceased was established from the photograph and the clothes shown by the GRP, Kurukshetra as Piyus Bhuiyan had fallen from the running train and died at the spot. Therefore, probably, the deceased might have been cremated as unclaimed. Since, the petitioner belong to poor strata of society, it is not possible that the co-passengers were able to influence the investigation by the SHO.

As far as railway tickets are concerned, John Topano has clearly stated that three tickets were purchased from Hatia to Jalandhar. It is also on

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file that two persons reached Jallandhar city. It is stated that two tickets were handed over to the TT and one ticket was retained. Whether this ticket was actually for the passenger or for some other co-passenger does not matter. The fact remains that three tickets were purchased; two were handed over to the TT and; one ticket was produced before the GRP, Kurukshetra. The validity and genuineness of the ticket was not denied by the railways. Therefore, it is established that the deceased-Piyus Bhuiyan had purchased a valid journey ticket from Hatia to Jallandhar city and had boarded the said train. Otherwise, also for such a long journey, it is very difficult to travel ticketless.

As such it is held that the deceased-Piyus Bhuiyan was the *bona fide* passenger of the train and died as a result of fall from the running train in an untoward incident. Consequently, the present appeal is allowed and the findings of the Tribunal on issues No. 1, 2 and 4 are hereby reversed. The respondents are directed to pay ₹ 4.00 Lakhs as compensation to the appellants alongwith interest @ 9% per annum starting from the date of filing of application for compensation before the Tribunal i.e. 28.07.2011 till the actual payment is made.

February 15, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

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