

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

FAO No. 2390 of 2016 (O&M)

Date of Decision: 27.04.2017

MATHURA 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. Banni Thomas, Advocate,
for the respondent-UI.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 22.01.2016 passed by the 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 stated by the learned counsel for the appellants are that on 18.01.2014, deceased-Jagar Singh S/o late Sh. Mahender Singh, aged 36 years, farmer by occupation, resident of Village Sangrah, PO Sangrah Renuka, District Sirmour, Himachal Pradesh, was going back from Village Deen, Kurukshetra after meeting his cousin sister accompanied by his friend Bahadur Singh, reached Kurukshetra Railway Station in the evening and purchased a joint computerized ticket from Kurukshetra to Mohri Railway Station and boarded the train. When said train reached at Mohri Railway Station, there was heavy rush in the train and Jagar Singh could not alight from the train whereas his friend Bahadur Singh had alighted from the train. Thereafter, the said train started moving and when it reached at KM No. 189/1-3 in between Mohri and Ambala Cantt. Railway

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Stations, Jagar Singh fell down from the train and died at the spot. Thereafter, one Gateman namely Guddu detected the dead body and informed the Station Master, Ambala Cantt. who issued a memo to General Railway Police (GRP), Ambala for necessary action. The GRP arrived at the spot and conducted the personal search of the deceased whereby cash of ₹4380/- alongwith a common computerized railway ticket bearing No. S-84144422 for two persons from Kurukshetra to Mohri Railway Stations.

In the reply, the respondent has taken the plea that said deceased-Jagar Singh was not a *bona fide* passenger of the train in question as no valid journey ticket has been enclosed with the claim application. It was also stated that no such untoward incident or railway accident with 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 bonafide passenger of the train at the time of incident?*
- 2) *Whether the incident is covered within the ambit of Section 123 (c) (2) read with Section 124-A 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 on two grounds. First one is that the ticket was purchased from Doda Kheri Railway Station at 1728 hours on 18.01.2014 which is about six kilometers away from the Kurukshetra Junction Railway Station towards Ambala.

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Whereas, according to Bahadur Singh, the ticket was purchased from Kurukshetra Railway Station. Therefore, the Tribunal held that the said ticket was a procured one.

Secondly, the Tribunal also came to the conclusion that the deceased-Jagar Singh was not the passenger of the train at the time of the incident and was run over by the train while crossing the railway line.

I am of the view that the findings of Tribunal are not acceptable and liable to be set aside. The deceased was to de-board at Mohri Railway Station and it appears that for one or the other reason, he could not de-board and after approximately 2 ½ KMs., deceased-Jagar Singh fell from the said train at KM No. 189/1-3. The occurrence took place on 18.01.2014. The Tribunal has doubted that the ticket was procured one. I am of the view that the possibility of procuring the ticket is ruled out from the fact that when the dead body was examined by the GRP on 18.01.2014 itself and search memo (*Annexure A-3*) was prepared, in which cash of ₹4380/- alongwith the said ticket from Kurukshetra to Mohri was recovered. The perusal of the ticket does not show the place of issuance of the said ticket. The ticket was from Kurukshetra to Mohri, therefore, it cannot be purchased from station between Kurukshetra and Mohri. Hence, the conclusion drawn by the Tribunal that it is a procured ticket is contrary to records. Accordingly, the said findings are reversed.

So far as the findings of the Tribunal that the deceased was run over by the train, it comes out that the deceased could not de-board at Mohri Railway Station, he was otherwise a *bona fide* passenger. Therefore, if passenger is unable to de-board at his destined station, at the maximum he could be charged extra fare. However, he will continue to be a *bona fide*

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passenger. The place of site-plan prepared on the inquest report shows that the dead body was found just outside up railway line and was detected by one Gateman namely Guddu.

The nature of injuries as shown in the inquest report as well as in the post mortem report show that the head of the deceased was badly damaged and the brain matter was crushed, right eye was also crushed, multiple reddish abrasions were present on the body, the right arm was also found fractured. The aforesaid injuries itself indicate that it is not a case of the running over by the train. Apparently, deceased fell down from the train and his head hits the ground resulting in injuries and abrasions. Otherwise, it comes out that the deceased belonging to Himachal Pradesh and thus, there was no reason for him to be present at the place of occurrence so as to cross the railway line. The Tribunal lost sight that the petitioner was not residing near the place of incident.

It being so, present appeal is allowed and the impugned judgment dated 22.01.2016 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh is set aside.

Accordingly, the respondent is ordered to pay ₹4,00,000/- as compensation to the claimant within two months alongwith interest @ 9% per annum from the date of filing of the claim application i.e. 28.04.2014 till actual payment is made.

April 27, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

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