

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

FAO No. 2396 of 2016 (O&M)

Date of Decision: 27.04.2017

HARPREET SINGH

... Appellant

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. P.C. Goyal, Advocate,
for the respondent-UOI.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 22.09.2015 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 narrated by the learned counsel for the appellants are that Davinder Singh S/o Late Sh. Harbhajan Singh, aged about 57 years, belonging to Ludhiana City, used to go to Golden Temple, Amritsar to pay obeisance and usually come back in the evening or on the next day. On 13.05.2013 also, Davinder Singh, for the purpose of visiting Golden Temple, Amritsar to pay obeisance, purchased a computerized railway ticket from Ludhiana to Amritsar Railway Station. After paying obeisance, he purchased another ticket from Amritsar to Ludhiana Railway Station and boarded the train. Due to heavy rush in the train, he accidentally fell down from between Phillaur and Battian Railway Stations at KM No. 390-10-12 and died at the spot. Some passersby informed the Gangman,

FAO No. 2396 of 2016 (O&M)

Rajesh Kumar, about the dead body, who after visiting the spot had informed the Station Master. Accordingly, General Railway Police (GRP) reached at the spot. The deceased was unidentified at that time. From the personal search of the deceased, nothing was recovered except cash of ₹ 30/- and two railway tickets bearing Nos. X-58815085 and X-85595649; one for the journey from Ludhiana to Amritsar and the other one is from Amritsar to Ludhiana.

In the reply, the respondent has taken the plea that said deceased-Davinder Singh was not a *bona fide* passenger of the train in question as the applicants-appellants has failed to mention the name and number of the train by which the deceased was travelling. It was also stated that it is highly improbable that father of the applicants-appellants remained missing for 8 days and the family did not search for him. It was further stated that the nature of injuries clearly show that it is a clear cut case of suicide or running over by the train and 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 alleged 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.*

FAO No. 2396 of 2016 (O&M)

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

The Tribunal held that the story of the deceased purchasing the journey ticket from Amritsar to Ludhiana, is doubtful. It is stated that while noticing that the ticket from Ludhiana to Amritsar was purchased on 13.05.2013 at 10:59 hours and deceased might have boarded the Shan-e-Punjab train which departs from Ludhiana at 12:23 hours and reach Amritsar at 14:20 hours. The return ticket could not be purchased at 14:34 hours as it is not possible to visit the Golden Temple and come back after paying obeisance to the Amritsar Railway Station within 30 minutes.

The reliance was also placed on some cuttings and it was doubted that the GRP in order to help the victim had manipulated the tickets. Reliance was also placed on the statement of the investigating Sub Inspector, Railway Protection Force (RPF) who opined that the cutting of paper shows that only one ticket was recovered. It was also concluded that the deceased might have been tried to cross railway line as the place where the dead-body was recovered, is a thoroughfare, where the people used to cross the railway line to go to the other side.

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

I am of the view that the judgment of the Tribunal is based on the presumptions and conjectures. The Tribunal has itself assumed the facts by its own imagination.

The perusal of the two railway tickets recovered from the dead body show that both the tickets were purchased on 13.05.2013. One ticket was purchased from Ludhiana Railway Station at 10:59 hours and other one

FAO No. 2396 of 2016 (O&M)

was purchased at 14:34 hours at Amritsar. There is no evidence as to which train was boarded by the petitioner after purchasing the ticket around 11.00 A.M. Assuming that the deceased might have boarded the next available train, it takes around 2½ hours to reach Amritsar from Ludhiana. The deceased might have reached Amritsar around 01.30 P.M. Assuming that he reached late, sometime, the passenger who is to return back on same day, purchases the ticket for the return journey immediately after de-boarding the train. Therefore, it cannot be presumed that the deceased must have purchased the return journey ticket only after he came back from Golden Temple. The fact remain that the deceased has boarded one of the train belonging to the Railways from Amritsar and was going towards Ludhiana. His dead body was found between Phillaur and Battian Railway Stations which is near Ludhiana. There is another fact which goes to show that the tickets cannot be manipulated. The deceased was unidentified in the inquest report. The documents on file show that on 17.05.2013 i.e. 4 days after recovery of the dead body, the Railways moved for issuing of an advertisement, as the deceased was not identified. The post mortem report shows that the postmortem was conducted on 17.05.2013 i.e. after 4 days of the occurrence. It was only thereafter, that the legal heirs of the deceased came to know about him. Therefore, there is no possibility of any manipulation by the legal heirs of the deceased. Mere fact that the dead body was found at a place which is used for crossing the railway line is no ground to presume that the deceased was crossing the railway line.

The possibility of deceased being run over by the train is ruled out from the nature of injuries which the Tribunal failed to examine. The inquest report as well as post mortem report show the injury on the head,

FAO No. 2396 of 2016 (O&M)

both the arms were fractured and there were abrasions on the entire body including the arms and legs. These types of injuries are possible only when somebody fall from the running train rather than somebody run over or hit by the running train. Therefore, the Tribunal erred in holding that the deceased might have been either run over by the train while trying to cross the railway lines or in order to commit suicide. The deceased had gone to Golden Temple from Ludhiana and was returning back and there was no reason for him to be found at the place where the dead body was recovered. The passersby had informed the Gangman about the dead body. It was possible only because the place where the dead body is found was a thoroughfare, and it was only thereafter, the Gangman visited the spot and informed the Station Master at about 6 P.M. on the same day.

Therefore, the conclusions drawn by the Tribunal are not supported by the evidence. The Tribunal cannot act on presumptions and conjectures to draw its own imaginary conclusions which are not supported by the evidence. The fact remains that deceased, who was unidentified at the time of recovery of the dead body and remain unidentified for eight days, had gone to Amritsar and was returning back and his dead body found near the railway track.

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

It being so, present appeal is allowed and the impugned judgment dated 22.09.2015 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh is ordered to be reversed.

April 27, 2017

(KULDIP SINGH)
JUDGE

✓
Yes / **No**

✓
Yes / No