

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 8150 of 2014 (O&M)

Date of Decision: 10.03.2017

MUKHTIYAR SINGH

... Appellant

VS.

**UNION OF INDIA THROUGH GENERAL MANAGER, NORTHERN
RAILWAY, BARODA HOUSE, NEW DELHI**

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

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

Mr. Sanyam Malhotra, Advocate,
for the respondent-Union of India.

KULDIP SINGH, J (ORAL)

This is the first appeal filed against the judgment dated 11.11.2013 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short “the Tribunal”) vide which the claim application filed by the appellant for grant of compensation was dismissed.

Brief facts of the present case, as alleged by the applicant-appellant, are that on the intervening night of 15/16.04.2011, Gurnam Kaur (since deceased), aged about 70 years (as per the post-mortem report), was to go from Budhlada to Bhatinda to meet her sister and daughters. So, on 15.04.2011 she reached Railway Station, Budhlada alongwith her son Tarsem and after purchasing the journey ticket, she boarded the Punjab Mail Train for Bhatinda and her son Tarsem returned home thereafter. When the said train reached KM 289/6-7 at Katar Singh Wala Railway Station, she accidentally fell from the running train and died at the spot. Gurdarshan Singh, Gateman, after detecting a dead body lying near the railway track,

informed the Station Master, who in turn informed the In-charge, General

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Railway Police (GRP). Thereafter, the inquest report was prepared and post mortem was got conducted. The family of the deceased, on finding that the Gurnam Kaur (deceased) had not reached Bhathinda, started searching for her and according to them from GRP, they came to know that dead body of Gurnam Kaur was detected near the railway track.

In the reply, the Railway has taken the stand that the deceased was not the passenger of the train not much *bona fide* passenger as no ticket was recovered from the deceased and also denied that deceased fell from the running train. It is also stated that the injuries sustained by the deceased are not possible due to fall from the train rather these are possible when someone was crossing the railway line and was hit by a fast moving 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 dependent(s) of the deceased in this case?*
4. *Relief.”*

After going through the evidence and hearing both the parties, the Tribunal came to the conclusion that since, no ticket was recovered from the personal search of the deceased, therefore, she was not a *bona fide* passenger of the train. Reliance was also placed on the DRM report wherein it was observed that the deceased had entered the railway premises illegally and became victim of run over by a train. The Tribunal also recorded the findings that there are some discrepancies in the statement of Tarsem son of the deceased, who has stated that a telephone number was found from the

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pocket of the deceased from which the GRP had contacted them. The Tribunal also doubted that as to why the deceased boarded the train at night time which could disturb her night sleep.

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

First of all, it is to be noted that railway in the inquest report came to the conclusion that the deceased died due to fall from the train. The dead body was found lying near the railway track. The deceased belong to the Village and Post Office Daska, Police Station-Dharamgarh, District Sangrur, Punjab and there was no reason for her to go to the place at Katar Singh Wala Railway Station where her dead body was recovered near the railway track.

If we come to the injuries, the post mortem report shows that lacerated wounds 16 cm x 6 cm over the left fronto parieto occipital region, skull bones broken, meninges torn, chips of bones piercing with the brain matter, brain matter lacerated & visible from outside. In addition to this, there were multiple bruises present over front of left side of the chest and abdomen.

I am of the view that these injuries are not possible if somebody hit by a fast moving train. These injuries are possible if somebody fall from the train and his/her head strikes against the ground. Therefore, the DRM report, to the fact that the deceased has entered the railway premises illegally and became victim of run over by a fast moving train, has to be disbelieved and discarded.

Next question arising for consideration is as to whether the deceased was a *bona fide* passenger? For that purpose, it is to be noted that the deceased was approximately 70 years of age who fell from the train. As

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the deceased-Gurnam Kaur was going to meet her sister and daughters, she must be carrying some articles or some cash at least with her. But from the personal search of the deceased, no belongings were recovered from her. It is quite possible that the belongings/purse, which might be containing some cash/ticket of the deceased, was left in the train, when she fell from the train. Therefore, it cannot be said that the deceased-Gurnam Kaur was a ticketless passenger. The statement of her son Tarsem has to be believed that her mother boarded the Punjab Mail train for Bathinda.

It being so, the findings of the Tribunal are hereby reversed on issue Nos. 1 and 2. I am of the view that the sole statement of the applicant-appellant (husband of the deceased-Gurnam Kaur), supported by statement of his son Tarsem, is sufficient to prove their claim. Therefore, the findings of the Tribunal on issue No. 3 are also reversed. Consequently, the findings on issue No. 4 are also reversed.

As a result of the aforesaid discussion, the appeal is allowed and the impugned judgment dated 11.11.2013 is set aside. The respondents are directed to pay ₹ 4.00 Lakhs as compensation to the applicant-appellant alongwith interest @ 9% per annum starting from the date of filing of application for compensation before the Tribunal i.e. 18.01.2012 till the actual payment is made.

March 10, 2017

Suresh Kumar

**(KULDIP SINGH)
JUDGE*****Whether speaking / reasoned* :**✓
Yes / No***Whether Reportable* :**✓
Yes / No