

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

**FAO No.7359 of 2015 (O&M)
Date of decision : April 25, 2017**

Benami and others **Appellants**

Versus

Union of India **Respondent**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Sunita Nambiar, Advocate for
Mr. Balkar Singh, Advocate for the appellants.
Mr. Sandeep Vermani, 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 the first appeal against the judgment dated 25.08.2015 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal'), vide which the claim application filed by the applicants-appellants was dismissed.

The brief facts of the case are that Smt. Birwati (now deceased) wife of applicant-appellant No.1 and mother of applicant-appellant Nos.2 and 3 accompanied by her sister-in-law (*nanad*) Rajjo after purchasing tickets boarded EMU local train at Faridabad. She was to go to Hodal from Faridabad. It is stated that when Smt. Birwati (deceased) was standing near the gate of the train, due to sudden jerk, she fell down between the platform and the train was run over by the train.

The railway in the reply took the plea that the deceased was not a bonafide passenger. The applicants-appellants have not mentioned the number of the train. No ticket was recovered from the possession of the

deceased.

From the pleadings, the following issues were 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 Railway Act?*
- 3. Whether the applicant(s) is/are the sole dependants of the deceased in this case?*
- 4. Relief.”*

The Railway came to the conclusion that the deceased was not a bonafide passenger and it was not an untoward incident.

I have heard learned counsel for the parties and have also carefully gone through the original record of the Tribunal.

A perusal of the original record shows that some articles were recovered from the personal search of the deceased. However, the ticket was not recovered.

Now, the question would arise as to whether the ticket was lost in the incident or whether the deceased fell from the train as claimed by the petitioner?

In this case, the material witness Rajjo, sister-in-law of the deceased, who was stated to be accompanying the deceased, was not examined at all. According to DRM report, the deceased was urinating on the track and was run over by the train. However, the postmortem report speaks something else. As per postmortem report, the following injuries were found on the person of the deceased:

“Muscles, Bones and Joints

Injury, Disease or deformity,

Fracture or dislocation. 1. HEAD AMPUTATED AT THE LEVEL OF NECK.

- 2. BOTH LEGS AMPUTATED FROM THE BASE.*
- 3. LACERATED WOUND OF SIXE 3X4 CM PRESENT ON RIGHT LEG.*
- 4. BOTH ARMS AMPUTATED FROM THE BODY.*
- 5. LACERATED WOUND PRESENT ON RIGHT ARM OF SIZE 5X2 CM.*
- 6. LACERATED WOUND OF SIZE 2X2 CM PRESENT ON FOREARM OVER THE RIGHT EYEBROW.*
- 7. MULTIPLE GAZED ABRASION PRESENT ALL OVER THE BODY.”*

A perusal of the abovenoted injuries shows that the head was amputated at the level of neck. Both the legs were amputated from the base and both the arms were amputated from the body. Some additional injuries were also found.

The nature of the injuries shows that as if the deceased was lying on the track with neck on the one side and the legs on the other side, that is why these were chopped of. A further perusal of nature of the injuries shows that apparently it is a case of suicide. It is neither a case of fall from the train nor the case of run over by the train. Moreover, it could not be proved that the deceased was carrying a valid journey ticket.

It being so, the findings recorded by the Tribunal are affirmed that the deceased was not a bonafide passenger and it was not an untoward incident involving the railway. It is apparent a case of suicide, for which the railway could not be blamed.

As such, there is no illegality or infirmity in the impugned judgment. Accordingly, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

April 25, 2017

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