

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

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**FAO No.6187 of 2014
Decided on : 09.08.2018**

Satbiri & another

... Appellants

Versus

Union of India

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms.Sunita Nambiar, Advocate, for
Mr.Balkar Singh, Advocate for the appellants.

Mr.Karminder Singh, Advocate, for the respondent-UOI.

G.S. Sandhawalia, J. (Oral)

The present appeal, filed under Section 23 of the Railways Claims Tribunal Act, 1987 (for short, the 'Act'), is directed against the order of the Railways Claims Tribunal, Chandigarh Bench dated 10.12.2013, whereby compensation to the wife and daughter of the deceased-Nathi Ram has been denied.

The reasoning recorded by the Tribunal, after examining the evidence, the material on record and the pleadings, to deny the relief was that the relatives of the deceased had reached beforehand at the place of incident and no ticket was recovered from the jamatalasi of the deceased, which was done in their presence. There was no eye-witness who had seen the deceased buying the ticket and the claim that some person had pulled the chain on account of falling of the deceased from the train, had not been proved. The brothers were present at the place of accident before reaching of the GRP at the spot and they had gone along for the postmortem, which is clear from the signatures of the brothers, Narain Singh and Budhram on the

postmortem report. Resultantly, it was held that the deceased was a resident of the nearby area and while crossing the railway track, in an unauthorized way or intentionally, he came under the train and the Railways had been involved to get compensation. Resultantly, issues No.1 & 2 were, thus, decided against the appellants.

Counsel for the appellants has vehemently argued that from the jamatalasi, nothing was found and the chance of the ticket being misplaced would arise and the onus would shift upon the Railways, in such circumstances.

On the other hand, counsel for the Railways submitted that on account of no ticket being present on the person of the deceased, he cannot be held to be a *bona fide* passenger, as defined under Section 2(29) of the Act and the findings recorded by the Tribunal were, accordingly, justified.

A perusal of the record would go on to show that information was received by the Motorman of train No.64011, Dharmender that one dead body was lying in the track on the main line at Kms 1497/29-30 between Palwal and Ballabgarh and request was made to attend and dispose, by the Deputy Superintendent, Ballabgarh to the Railway Police at 6.30 am on 03.08.2011. Jamatalasi was done in the presence of the brothers and no ticket, as such, was found from the person of the deceased. The Railways, in their DRM report, also had come to the conclusion that the deceased was crossing the line unauthorizedly and had come under the train and became a victim of a Railway accident. The

perusal of jamatalasi report would also show that the presence of the brothers, Narain Singh and Budhram was there.

The stand of the Railways is also very clear and express in its written statement that it was a case of unauthorized crossing of the track and the person had been struck and run-over by some train and there was no ticket and therefore, it was not a case of an untoward incident. The pleaded case and the affidavit also would go on to show that the deceased had fallen down from the train and there was no evidence to the chain pulling and the train was stopped at the next station, i.e., Aswati Railway Station, which is not as per the record.

As noticed above, the information was received from the Motorman and the Railways had also examined RW-1, Bal Krishan, SI, who in his affidavit also, averred that the deceased was guilty of negligence and while crossing the train and moving towards his house in the nearby Village Jharsetli, Tehsil Ballabgarh, in an unauthorized manner, he had been run-over by a moving train.

Similar is the deposition of RW-2, Om Bir, who was the Deputy Superintendent, Ballabgarh and had been informed by the Motorman, the Driver of the said train that a body was lying on the track. The claim, as such, of the appellants, that he had boarded the train to meet his sister and was proceeding from Ballabgarh to Palwal and due to heavy jerk, had fallen down, thus, is belied, in the facts and circumstances. No witness, as such, had been produced or information brought on record that the train had stopped and some passengers had

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informed the Railway authorities regarding the accidental falling of the deceased from the train, to bring it within the ambit of Section 123 (c) (2).

The claim for damages and compensation would only lie where the passenger who has a valid pass or a ticket, while trying to board or deboard a train, as such, accidentally falls off the train. In the present case, ample material has been brought on record that the deceased was a resident of the village which was in close vicinity where the body had been found. The brothers had reached immediately at the spot and were present at the time of jamatalasi, in which no ticket had been found from the person of the deceased, in the presence of the relatives and GRP. Therefore, the deceased cannot be held to be a *bona fide* passenger under Section 2(29) of the Act.

The relief which has been denied by the Tribunal, in such circumstances, is not liable to be interfered with. Resultantly, the present appeal is dismissed.

AUGUST 9th, 2018
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No