

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

**FAO No.3740 of 2016
Reserved on: 01.10.2018
Pronounced on : 17.10.2018**

Harvinder Kaur and others

... Appellants

Versus

Union of India

... Respondent

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

Present : Mr. Atul Bhatia, Advocate
for the appellants.

Mr. Karamjit Verma, Advocate
for the respondent-UOI.

G.S. Sandhawalia, J.

The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act') against the order dated 13.01.2016 passed by the Railways Claims Tribunal, Chandigarh Bench, Chandigarh, by the dependents of the deceased Joginder Singh which include his wife and children.

A perusal of the claim petition and records show that conclusion was that the deceased was not a bonafide passenger and the body had been badly cut into pieces and it was a case of run over. Resultantly, benefits of compensation were denied.

Counsel for the appellants has vehemently argued that the body was found on the railway track and, therefore, it was a case of death in an untoward incident. The benefit should go to the claimants who are the dependents of the deceased.

The perusal of the record would go on to show that the petition was filed on 28.01.2014 qua the incident which happened on 25.09.2013. In the claim petition it was alleged that the deceased Joginder Singh had come back from his duty on 24.09.2013 and told his wife that he is going to meet his sister's daughter, namely, Amandeep Kaur at village Dakansu and would come back on the next day. When he never came back, enquiries were made and it was found that he had been dropped at the Railway Station, Rajpura at 4:00 AM on 25.09.2013. The family came to know from the newspaper that a Sikh person had died in railway accident near Ghel village and they contacted the GRP, Ambala City and found that the deceased was none else but husband of the applicant No.1. The incident, thus, had taken place between Ambala City and Shambhu Railway Stations at KM 272/30 and 273/8. It was alleged that the ticket was lost in the incident and resultantly, claim was made of ₹8 lakhs.

The defence of the Railways was that the incident of falling down from train is false and it is a unbelievable story and a concocted version and there was no ticket which was found during the *Jamatalshi* search and the deceased was not travelling on any train and he was not a bonafide passenger and had died while crossing the railway line carelessly.

Harwinder Kaur had filed her affidavit on the same lines as per the claim petition. In cross-examination she had submitted that she did not know from which place to which place her husband was

undertaking the train journey, since she was not accompanying him. She had come to know about the incident from the newspaper and they had tried to find out about her husband and he had not been found. She denied the fact that he was not undertaking any train journey.

The respondent on the other hand examined Dinesh Kumar, Station Master, Ambala City who in his affidavit submitted that he was informed by Shri Yaswant, Keyman that some parts of the human body were lying on the track between UBC-SMU DN Line at KM 273/0 to 273/6/ He had, thereafter, issued memo dated 25.09.2013 to the GRP for taking necessary action.

A perusal of the said memo (Ex.AW1/2) would go on to show that it was issued on 25.09.2013 at 7:15 in the morning by the said witness. The inquest report (Ex.AW1/3) would also go on to show that parts of the body were lying there close to a railway crossing. The DRM Report also would go on to show that the inquiry which was made by the authority was that the deceased was not a passenger and had been negligent while crossing the railway line on which account the deceased had become a victim of incident. A perusal of Ex.AW1/5 would go on to show that it was reported in the newspaper that said incident had taken place and the person was not identified.

Claimants also have not examined any one to that extent from Rajpura where the deceased had boarded the train en-route back to Ambala to which area the claimants belong. The body was identified by Iqbal Singh, Sarpanch and Jasbir Singh brother of the deceased and the

postmortem was done on 27.09.2013. The cause of death also due to crush injuries on the head and other multiple organs, which is sufficient to cause death of a person in ordinary course of nature. The possibility of train accident, however, could not be ruled out.

Merely, because the body was found on the railway line and cut into pieces would not necessarily mean that the deceased was a bona fide passenger with a valid ticket. Therefore, to claim compensation by the claimants and to sustain the claim, it would have been necessary for him to be covered under the definition of Section 2 (29) of the Railways Act, 1989 of a passenger. The incident as such which has also happened is within the Ambala District and it is to be noticed that the appellants are resident of village Dadiana, PO Kakru, Tehsil Ambala City, District Ambala. The place of occurrence is also the opposite railway crossing and, therefore, chances of the deceased being run down while carelessly crossing the railway line is a fact which cannot be discounted. To shift the onus as such, it was necessary for the claimants to prove the fact by examining the concerned witnesses including Daljit Singh who had allegedly dropped the deceased at Rajpura Railway Station at 4:00 AM on 25.09.2013 when he is stated to have boarded the train.

In the absence of any such witness coming forth and neither niece Amandeep Kaur being examined that her uncle visited her on the night of 24.09.2013 and stayed with them, the reasoning which was given by the Tribunal is on probable lines and does not require any interference by this Court.

In such circumstances, there is no occasion made out to interfere with the well reasoned order passed by the Tribunal. Accordingly, the present appeal is dismissed.

OCTOBER 17th, 2018
Naveen/sailesh

(G.S. SANDHAWALIA)
JUDGE

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