

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

**FAO No.9262 of 2014
Decided on : 07.08.2018**

Karamjit & others

... Appellants

Versus

Union of India & another

... Respondents

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

Present : Mr.Upender Prasher, Advocate for the appellants.

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

G.S. Sandhawalia, J. (Oral)

The present appeal, under Section 23 of the Railways Claims Tribunal Act, 1987 (for short, the 'Act') directed against the order of the Railways Claims Tribunal, Chandigarh Bench dated 25.11.2013, has been filed by the appellants/claimants, who are the wife and children of the deceased-Noor Masih.

The Tribunal has declined to grant the claim of compensation after going through the record and on coming to the conclusion that there was no such travel document on the person of the deceased to show that he travelled on 08.09.2011 from Amritsar, since during the jamatalasi, the ticket had not been recovered. Resultantly, he was held not to be a *bona fide* passenger at the time of the alleged incidence. Accordingly, merely because the body was lying near the track, it was held that it would not be a ground to prove that the deceased was travelling on a train and on account of falling down from the train, he had sustained the injuries. Resultantly, it was held under issue No.3 that the deceased had been run down on account

of some passing train and since he was working as a kabari and could be wandering in the area and could be a victim of an accident on account of being hit by a running train.

Counsel for the appellants has vehemently argued that from the post-mortem, which was conducted at 11.15 am on 09.09.2011, that it would be clear that it was a case of a railway accident. It is submitted that even the railway officials had taken the deceased and the nature of injuries would go on to show that it was a case of a fall from the train and resultantly, he submits that the appeal is liable to be allowed and the findings, as such, recorded by the Tribunal, are liable to be reversed.

On the other hand, counsel for the Railways submitted that it is the case of the Railways right from the start that it was a case of hit by a train as would be clear from Ext.A-1, which was issued by the Station Master, Verka that one person was injured by train DMU No.74651 on 09.09.2011 between Verka and Majitha. Information was given by the Keyman, Ram Avtar and resultantly, the GRP, Verka had been intimated to take action accordingly.

After a perusal of the record, this Court is of the opinion that the findings which have been recorded by the Tribunal do not warrant any interference by this Court, as it is a case of being run down by a train and not a case of a passenger who had fallen down from the train, as has been projected in the claim petition.

A perusal of the pleadings would go on to show that the deceased was stated to have boarded the train DMU No.74657 on

08.09.2011, from Amritsar Railway Station to Ramdas Railway Station, his native village. He had accidentally fallen down due to the jerk in the train, as per the pleadings and his railway ticket had been lost which was stated to have been kept in his purse.

In the written statement filed, the defence of the Railway was that he was not a passenger and the information received was that a person was injured by train DMU No.74657 on the basis of which a message was given and therefore, it was a case of entanglement with a moving train.

The evidence of the widow would also go on to show that they are permanent resident of Bhagwanpur, Tehsil Ajnala and there was an attempt to show that they were temporarily residing at Kirpal Colony, Amritsar. A story was put-forward that the deceased had left from Amritsar for his native place. The witness Barnad Masih was introduced to show that they came to the Amritsar Railway Station together and he had gone to Ambala whereas the deceased had come to his home town. In the cross-examination, the wife has admitted that the matrimonial house is Bhagwanpur and her husband used to do the work of Junk Dealer and pulling the rehri and she had two brother-in-laws and even the father and mother-in-law lived in the village. It is, thus, apparent that the deceased was a resident of the village which was adjoining the area of incident and the information which has been recorded at the first instance was also of a person crossing the track and getting hit by a train. The jamatalasi which was done immediately thereafter, did not find any ticket

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and therefore, further proves the case of the Railways that he was not a passenger on the train, as put-forth. Even in the affidavit of Surinder Singh who was working as Station Superintendent, Railway Station Verka, it was mentioned that there was a level crossing at gate No.17-B at Kms 9-4-5 near to the place where the injured person was reported to be lying. Even from the statement of Barnad Masih, in the cross-examination, it has come on record that the deceased had left for catching the train which was going towards his village Ramdas. Even the Ration Card (Ext.A-6) would go on to show that the residence of the family was of Village Bhagwanpur Sub-Tehsil Ramdas, Block Ajnala, District Amritsar.

All these facts would go on to show that the deceased and his family were actually residents of the area where the incident had taken place. It was not a case of any travel by a passenger but a case of running down and therefore, the findings which have been recorded by the Tribunal, do not warrant interference by this Court. Resultantly, the present appeal is dismissed.

AUGUST 7th, 2018
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No