

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

**FAO No.7717 of 2015  
Decided on : 07.08.2018**

Raj Rani

... Appellant

Versus

Union of India

... Respondent

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

Present : Mr.Subhash Sachdeva, Advocate, for  
Mr.S.K.Rana, Advocate for the appellant.

Mrs.K.K.Kahlon, Advocate, for the respondent-UOI.

**G.S. Sandhawalia, J. (Oral)**

The present appeal, 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 30.07.2015, has been filed by the appellant/claimant, who is the mother of the deceased-Pawan Kumar.

The Tribunal has declined to grant the claim of compensation on account of the fact that from the record, the credibility of the evidence of the appellant was doubtful regarding the incident and the manner in which it had happened and when the brother had been informed and when he reached Yamunanagar to take the deceased to PGI. It was also observed that the ticket had not been recovered and therefore, as the mother was not travelling with the deceased, she could not tell as to how Pawan Kumar was travelling on a train as a passenger and from where to which place and when he had purchased the ticket and resultantly, in the absence of a valid and *bona fide* travel ticket, issue No.1 qua *bona fide* aspect of a passenger was held

against the appellant.

Similarly, on issue No.2, it was held that under Section 123 (c) (2) of the Railways Act 1989 (for short, the '1989 Act'), it was not a case of untoward incident of falling down from any train. In the post-mortem report, the injuries mentioned of the weapon used had been blunt and it could not be said that it was on account of falling from a train as merely because the GRP personnel present had stated that he had fallen from the train but he himself was not an eye-witness and therefore, the said issue stood in favour of the Railways. The issue of dependency, as such, of the claimant was upheld and resultantly, the claim for relief was declined.

Counsel for the appellant has vehemently argued that from the record, it would be apparent that the incident happened at the Railway Station Jagadhri and the deceased was lying in injured position on the beginning of platform No.2 between line and platform and the manner the body was found near the platform and in the absence of the railway ticket, it was a case of an untoward incident and therefore, the Tribunal was in error in not granting the benefit. It is submitted that it is a social and beneficial piece of legislation and therefore, because of the position where the injured was lying, it was apparent that it was a case of falling from the train and accordingly, reversal of the findings are, thus, sought for.

Counsel for the Railways, on the other hand, submitted that neither there is any eye-witness to the falling of the deceased from the train and the statement of the mother has rightly been doubted. It is

submitted that as per the case of the appellant herself, the deceased had left the house on 18.02.2012 and therefore, she could not, in any manner, depose as to the places of travel and the details as to how the deceased reached Jagadhri and even the injuries on the person of the deceased did not establish, as such, that it was a case of falling from the train and therefore, the order passed by the Tribunal is justified in the facts and circumstances.

After a perusal of the record, it would be clear that as per Ext.A-1, a report had been received from the Station Superintendent, Jagadhri by the SHO GRP that one unknown person was lying in injured position on the beginning of platform No.2 of Jagadhri Railway Station between line and platform and accordingly, action was sought for and an ambulance was called for. The claim in the petition is very specific that the deceased had purchased one ordinary second class ticket from the Railway Station, Ambala Cantt. to Jagadhri and had accidentally fallen down at Jagadhri where he had been shifted to General Hospital, Yamunanagar and then to PGI, where he succumbed to his injuries on 02.03.2012. The ticket along with the bag of clothes had been lost, as per the claim of the appellant.

The stand of the Railways was that he had not boarded any train from Ambala Cantt. to Jagadhri Railway Station and he was not a *bona fide* passenger and no ticket was found from his jamatalasi and the whole story was concocted to extract the money.

A perusal of the record would go on to show that on 23.02.2012, in pursuance of the request sought by the ASI Wazir Singh,

the unknown patient was unfit to give the statement and was referred to PGI, Chandigarh. As per Ext. A-6, it would be clear that he was brought on an ambulance by Mukesh Singh, from Jagadhri Railway Station to Yamunanagar General Hospital and his name was not known at that stage. In the affidavit also, filed by the claimant, the plea taken is that the brother, Krishan Kumar was informed of the incident and he had come to Chandigarh along with the injured for his treatment. It is pertinent to notice that the brother had not been examined as a witness before the Tribunal. Satish Kumar, Deputy Superintendent of the Railways was also examined apart from Mukesh Kumar, Constable, who submitted that he had taken the injured in ambulance and got him admitted in Civil Hospital, Yamunanagar. The cross-examination of the appellant would also go on to show that when the brother had reached Yamunanagar, the deceased had already been shifted to PGI. This fact would be clear from Ext. A-2, which was from Vijender Singh, ASI, to the Medical Officer, Yamunanagar, where an unknown patient is referred to PGI Chd/GMCH-32. A story had been put-forth that the tea vendors had told that the deceased had fallen from the train.

The medical history, as such, and the post-mortem which was conducted by the PGI, Chandigarh (Ext.A-12) would go on to show that the deceased was found unconscious with injuries at Railway Station near Jagadhri and was taken to Civil Hospital Yamunanagar and then to PGI, Chandigarh. The external injuries upon him would also show that there were lacerated wounds, as such, present on the peripheral region and the occipital region and there was depressed fracture over left parietal

bone. The nature of the injuries, as noticed, was also blunt and the cause of death was craniocerebral trauma and its sequelae.

It is, thus, apparent that the deceased had been moving around and travelling it is specifically not clear as to how he can be termed as a passenger and neither any ticket has been recovered from his person. Merely because he was found in an injured condition on the platform near railway line would not, as such, shift the onus upon the Railways to prove that he had accidentally fallen off while boarding or deboarding the train, as provided under Section 123 (c) (2) of the 1989 Act.

The absence of the ticket, as such, on the person, under Section 2(29), is also a relevant factor which is to be kept in mind so as to maintain a cause of action for claim of compensation. A valid travel ticket is the main aspect before such a claim can be decreed in favour of the claimants. The DRM report also is against the appellant, as such, to the extent that there was no valid pass or ticket. In such circumstances, the findings which have been recorded by the Tribunal that there is a lot of contradiction in the pleadings and evidence of the appellant, as such, who was not in a position to depose the details about the facts which have now been done by way of affidavit and the story has been concocted afterwards. The onus, as such, is always upon the claimants to prove that the deceased was a passenger to claim compensation under Section 124-A and in the present case, the onus has not shifted, in any manner, to the Railways, to explain in what circumstances the deceased was travelling from Ambala to Jagadhri, on a train as a passenger having a valid travel

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ticket, as has been held forth by the claimant/appellant.

Resultantly, the findings which have been recorded on issues No.1 & 2 are not liable to be interfered with in the facts and circumstances of the present case and consequently, finding no merit in the present appeal, the same is, hereby, dismissed.

**AUGUST 7<sup>th</sup>, 2018**  
*sailesh*

**(G.S. SANDHAWALIA)**  
**JUDGE**

*Whether speaking/reasoned:*

*Yes/No*

*Whether Reportable:*

*Yes/No*