

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

FAO No.54 of 2019 (O&M)
Decided on:15.01.2019.

Union of India

.....Appellant

versus

Chirangi Lal and another

....Respondents

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Abha Rathore, Advocate,
for the appellant.

DR.RAVI RANJAN, J. (Oral)

CM-324-CII-2019

This application has been filed by the appellant-UIO for condonation of delay of 7 days in preferring the present appeal.

Upon perusal of the averments made in this application, this Court is of the opinion that the appellant was prevented by sufficient cause from preferring this appeal. In the result this application is allowed and delay of 7 days is hereby condoned.

FAO No.54 of 2019

1. This appeal has been preferred against the judgment and Award pronounced by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, in OA No.II/47/2016, whereby the claim for compensation of the claimants has been accepted and they have been declared and entitled to receive the statutory compensation amount with a rider that initially Rs.1 Lakh would be released in cash to each of the applicant through ECS and rest of the amount, i.e. Rs.3 Lakhs (each) to both the applicants together

with interest accrued thereon, shall be kept in fixed deposit in their favour in any Nationalised Bank for a period of three years and after expiry of three years that amount can be withdrawn even without permission of the Court.

It is contended on behalf of the appellant that the body was recovered on 19th June, 2014 when one Bhim Singh, Gangman of Railways, noticed it and he informed the Station Master, Gurgaon. Thus, it has to be presumed that some accident had taken place at about 4.30 in the morning of 19th or in the night of 18th of June, 2014.

It can be presumed that accident took place either in the morning of 19th or in the night of 18th June, 2014. It is contended that in such circumstances, especially when the body was lying in between the track, it has to be accepted that he was merely a passerby and met with an accident as he came under the impact of a running train. Thus, it is contended that the deceased not being a *bona fide* passenger, the claimants would not be entitled for any compensation amount.

2. In my considered opinion the aforesaid ground is noted to be rejected for the following reasons:

Admittedly, the train ticket dated 17.06.2014 was recovered from the dead body and the case of the appellant is that the deceased had gone to Delhi in search of work/job on 17.06.2014. In view of presence of train ticket in his pocket, it has to be presumed *prima facie* that he was a *bona fide* passenger. Once that is held even *prima facie*, the burden would shift upon the Railway Authority to produce evidence otherwise. However, no cogent evidence could be produced by the Railway Authorities. At this juncture it has been stated that, since the body was recovered on 19th June, 2014 and the ticket is of 17.06.2014, i.e. 2 days back, it cannot be presumed

that he was a *bona fide* passenger on 18/19.06.2014. This ground is also not tenable for the reason that post mortem report, a copy of which was produced at the time of hearing by learned counsel for the applicants, clearly shows that in the opinion of the Medical Officer who had conducting autopsy on the dead body, death had occurred between 20-24 hours and there can be variation of 4-6 hours in such cases. Thus, atleast one thing is established from the post mortem report that death did not take place either in the night of 18th or in the morning of 19th June 2014, because both would within 12 hours from the time of post mortem as the post mortem report further discloses that the period between inquest and post mortem is of few minutes. In such a situation, recovery of valid ticket from the possession of dead body and the post mortem report emboldens the case of the claimants that deceased was a *bona fide* passenger and somehow he dropped down of the train because the dead body was recovered on the track at Km 33/06-33/07 in between Gurgaon-Garhi Harsaru, Railway Station.

3. Accordingly, this Court of the opinion that since no ground could be raised by the appellant warranting interference in the judgment and Award, the appeal, being devoid of any merit is fit to be dismissed. Ordered accordingly. However, there would be no order as to cost.

January 15, 2019

dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No