

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

FAO No.60 of 2019 (O&M)
Decided on:15.01.2019.

Union of India

.....Appellant

versus

Amarjeet and others

....Respondents

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

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

DR.RAVI RANJAN, J. (Oral)

This appeal is directed against the judgment and Award dated 03.10.2018 passed in OA-11/126/2017 by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh.

1. The Tribunal has held that the deceased, a *bonafide* passenger, had died in an untoward incident which is described under Section 123 (2) of the Railway Act, 1989 and as such he has been found to be entitled for the statutory compensation amount of Rs.8 Lakhs.

2. The challenge to the judgment and Award is made on the ground that the deceased cannot be held to be a *bonafide* passenger and as such this finding of the Tribunal is erroneous for the reason that though he was holding a Monthly Season Ticket (MST) which was valid from 03.04.2017 to 02.05.2017 between two stations, i.e. from Shahabad Markanda to Ambala Cantt., but the dead body was found between Ambala Cantt. and Dukheri which is a different section. Therefore the claim petition was liable to be dismissed.

However, the claimants' case is that though the deceased was having a valid ticket but by mistake the deceased boarded a wrong train and when he was standing near the door to de-board on the next station due to jerk in the train he fell down of the train and received injury.

3. In my considered view once a case has been made out by the claimants that the deceased had boarded a wrong train and when he was standing near the door to de-board on the next station, the train took a jerk due to which he accidentally fell down. The dead body was not found in between the track rather it was found between two tracks. A Monthly Season Ticket (MST) was also found from the possession of the deceased. From the aforesaid, it would *prima facie* appear that he was a *bonafide* passenger and the accident would come under the ambit of Section 123(2) to be taken as untoward incident and, in such case, he would be entitled for compensation under the provisions of Section 124-A of the Railways Act, 1989, unless and until the railways authority is able to come up with certain evidence showing that he was not a *bonafide* passenger and the accident had taken place in the manner different from one which is being claimed by the claimants. However, except the pleading, there is no evidence as to how and under what circumstances the concerned person died and his body was found lying between two tracks though on different route. Thus, it has to be assumed that he was holding a ticket and he boarded a wrong train and somehow or the other he fell down from on the track and died. Except this there cannot be any explanation as to why and how the body was lying there. The railway tracks are under the supervision and control of the railway authorities, as such, they are required to produce evidence which shows any otherwise incident or mishap, but there is no explanation to same

that how the body was lying in between the track.

No other ground was raised by learned counsel for the appellant, save and except the same that has been considered as above.

As a sequel to the aforesaid discussion, in my considered view, no interference is warranted in judgment and Award passed by the Railway Claims Tribunal.

In the result, this appeal fails being devoid of any merit and is, accordingly, dismissed. However, there would be no order as to cost.

January 15, 2019

dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No