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

FAO- 7614-2016 (O&M)

Date of decision : 02.05.2025

Smt. Promila and ors.

..... Appellants

versus

Union of India

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

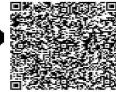
Present :- Mr. Kulvir Narwal, Advocate
for the appellants.

Mr. Piyush Khanna, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

1 Challenge is to the award dated 25.07.2016 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby the claim petition filed by the appellants-claimants stands dismissed.

2 Claimants approached Tribunal seeking compensation on account of death of Jai Kishan claiming that Jai Kishan died in an untoward incident dated 03.02.2012 while travelling in train. As per the claimants, Jai Kishan was travelling on the fateful day from Delhi to Rohtak by train. He fell in between. The brother of the deceased received call from the mobile of the deceased and was informed *qua* the accident by an unknown person. The deceased in an unconscious state was admitted to PGI, Rohtak where he remained till 12.02.2012 when he was shifted to Sir Ganga Ram Hospital, Rajinder Nagar, New Delhi. On 15.02.2012 he succumbed to his injuries at Sir Ganga Ram Hospital. Thus the claimants claimed that the deceased



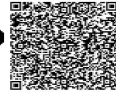
having died while travelling in a train after suffering injuries in an untoward incident, the claimants are entitled for compensation.

3 The claim was contested by the respondent denying that the deceased was a bonafide passenger or that he died in an untoward incident.

4 On the basis of the pleadings Tribunal framed following issues :-

- “1. Whether the deceased was a bonafide passenger of train at the time of incident?*
- 2. Whether the alleged incident is covered within the ambit of Sect. 123(C)(2) read with Section 124-A of the Railways Act?*
- 3. Whether the applicant(s) is/ are the sole dependent(s) of the deceased?*
- 4. Relief.”*

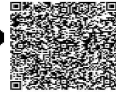
5 Tribunal while deciding issue with respect to the deceased being bonafide passenger held that the tickets brought on record relate to *fard-maqboozagi* prepared by police of Rajinder Nagar, New Delhi on 12.02.2012. Claimants while testifying before the Tribunal claimed that the tickets were handed over to the police authorities on 03.02.2012 and recovery memo was signed by Naresh Kumar, brother of the deceased. Thus there being major contradictions with respect to handing over of the tickets to the police authorities and the recording of memo *fard-maqboozagi*, the authenticity of the tickets is under cloud. There being no evidence to prove that the deceased was travelling in a train at the time of incident, claimants are not entitled for any compensation. Tribunal further found that there is no eye witness to the incident related to the deceased falling from the train. Rather the guard as well as the driver of the train i.e. Kissan Express



categorically stated that no incident as claimed by the claimants took place and thus the story projected by the claimants cannot be believed. The Tribunal thus recording findings on all the issues against the claimants dismissed the claim petition.

6 Mr.Kulvir Narwal, Advocate for the appellants has assailed the findings recorded by the Tribunal. He refers to the documents produced on record as Ex.A1 to A7 to submit that even as per the Railways authorities the deceased suffered injury near Railway Station, Sampla after falling from the train. He submits that the most initial version finds mention in the document dated 03.02.2012 (Ex.A-1) which shows that the accident occurred after the injured fell from running train near Railway Station, Sampla at around 06.30 PM. He further submits that the same was reiterated by GRPF authorities themselves in the subsequent communication dated 04.02.2012, 07.02.2012 and 12.02.2012. He thus submits that the railway authorities thus cannot dispute the fact that the deceased suffered an untoward incident after having fall from a running train on 03.02.2012 near Railway Station, Sampla.

7 He further submits that the train tickets have been proved on record. The claimants as well as brother of the deceased i.e. the witness of the claimants testified before the Tribunal that the ticket was handed over to the police authorities on 03.02.2012 and Naresh Kumar singed memo of recovery. The inconsistency being pointed out by the Tribunal was required to be explained by Police authorities. Once the claimants discharged the initial burden by producing the tickets, burden shifted upon the railway authorities to dispel the same. No effort was made by the railway authorities

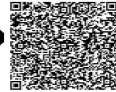


to examine the police authorities to dislodge the tickets. Thus the Tribunal erred in recording the finding to the effect that deceased was not a bonafide passenger.

8 *Per contra*, Mr. Piyush Khanna, Advocate for the respondent would submit that there is no evidence on record to prove that deceased-Jai Kishan suffered fall from the moving train. Rather the circumstances suggest that he got injured while crossing the railway track un-authorizedly. He submits that once the claimants claimed to have handed over the ticket to the police authorities on 03.02.2012, it is highly improbable that the tickets were produced along with *fard-maqboozagi* dated 12.02.2012. The aforesaid conundrum has remained unexplained and it was the claimants who had to shoulder the responsibility to remove the doubt. The claimants having failed to lead any evidence to dispel the cloud over the tickets, Tribunal held rightly non-suited the claimants.

9 I have heard learned counsel for the parties and have gone through the record of the case.

10 In the considered opinion of this Court, the touchstone that needs to be applied to assess the evidence on record in the matters pertaining to awarding compensation under the Railway Accident and Untoward Incidents (Compensation) Rules 1990 in claim petitions filed under Railways Act, 1989 is preponderance of probability and not proof beyond reasonable doubt. In the present case, the consistent stand of the claimants as well as the witnesses examined by them was that the deceased was travelling by train on a valid ticket. In order to prove the same tickets were brought on record. The tickets were produced from the custody of police

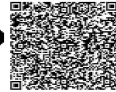


Station Rajinder Nagar, New Delhi. As per the police authorities they came in their possession under *fard-maqboozagi* dated 12.02.2012. It is not in dispute that right from the time deceased-Jai Kishan suffered injury on 03.02.2012, he remained unconscious till 15.02.2012. The tickets were produced from the proper custody. Appellant No.1, who was a widow, claims to have handed over the tickets to the police authorities. She categorically stated that brother of the deceased namely Naresh Kumar signed the recovery memo. The state of mind of the appellant No.1, whose husband was fighting for life and was in an unconscious state can be well imagined. The first priority for her was to take care of her husband and not to see whether the memo with respect to handing over of the railway ticket was recorded correctly by the police or not. Tribunal ought to have taken judicial notice of the aforesaid situation and should have been alive to the same. In case the railway authorities wanted to rebut the same, they were required to discharge their burden by leading cogent evidence. Admittedly, no evidence was led to dislodge the tickets.

11 In view thereof, this Court finds that the Tribunal erred in discarding the tickets.

12 In view thereof, this Court finds that the findings recorded by the Tribunal with respect to the deceased being not a bonafide passenger cannot be sustained and need to be reversed.

13 Coming on to the second issue with respect to the deceased having died of an untoward incident, this Court finds that right from the initial version recorded in Exbt.A-1 dated 03.02.2012 it is evident that the



deceased fell from a running train near Railway Station, Sampla at around 6.30 AM. There is no reason to doubt the same.

14 In view of aforesaid discussion, this Court finds that the award passed by the Tribunal cannot be sustained. The findings recorded by the Tribunal are hereby reversed. It is held that the deceased-Jai Kishan died in an untoward incident involving railway on 15.02.2012 after suffering injuries on 03.02.2012.

15 Claim petition filed by the claimants is allowed. The claimants are held entitled for compensation as per un-amended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990. Compensation of Rs.4,00,000/- along with interest @9% per annum Rs.8,00,000/- whichever is higher, is payable for the period from the date of application till the date of actual realization.

16 Pending miscellaneous application, if any, also stands disposed off.

02.05.2025

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No