



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

207

FAO-7697-2015

Date of decision : 18.07.2025

Kashmir Kaur and another

..... Appellants

versus

Union of India

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Poonam Tara Prasher, Advocate
for the appellants.

Mr. Amit Arora, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. Challenge is to the award passed by RCT Chandigarh dated 30.03.2015 whereby claim petition preferred by the claimants seeking compensation on account of death of Jarnail Singh in an untoward incident while trying to board train after purchasing ticket stands dismissed.

2. As per the claimants, Jarnail Singh purchased ticket to travel from Jalandhar Railway Station to Beas Railway Station on 16.06.2011. He boarded the train and due to heavy rush, was standing on the door of the compartment. When the train reached Dhilwan, i.e. the station between Jalandhar and Beas, he fell from the moving train after being pushed by co-travelers due to heavy rush. Deceased sustained injuries, his body was cut and he died on the spot. The claimants thus claimed



that deceased Jarnail Singh having died in an untoward incident, they are entitled for compensation under Railways Act read with Railway Compensation Rules.

3. The claim was contested by the department. It was denied that the deceased was a bonafide passenger. It was further claimed that it is not a case of fall from train as person, who falls from the train ordinarily does not come under the same.

4. On the basis of pleadings, following issues were framed by the RCT:-

“1. Whether the deceased was a valid railway passenger at the time of incident?

2. Whether the death of the deceased has been caused in any such incident which comes under the definition of unfortunate incident under section 123C(2) of the Railway Act?

3. Whether the applicants are the only valid dependents of the deceased?

4. Relief.”

5. Both the issues have been answered against the claimants. Claimants in order to prove their case, examined AW-2 Lakhwinder Singh, who claimed that he was accompanying deceased and had seen the deceased on Railway Station, Jalandhar. Lakhwinder Singh also claimed that deceased purchased ticket in his presence. Testimony of Lakhwinder Singh has been disbelieved by the Tribunal pointing out certain discrepancies observing as under:-

“xxxx In the affidavit of A/W-2 and cross examination there is a lot of contradiction at many places. The A/W-2 in his affidavit has described the day of coming to the above deceased as 16.06.2011 and has stated the time of 07:00 P.M of



leaving from his house alongwith deceased to the Railway Station Jalandhar whereas in the cross examination he has clearly stated that he don't remember the date of accident and he has not told anything to the Ld. Counsel and the family members of the deceased have told everything to the Advocate. The A/W-2 has stated the time of purchase of ticket as 06-06:30 P.M whereas in his affidavit he has stated the time of moving from his house at 07:00 P.M. if his house is situated at a distance of 3-4 K.M from the Railway Station Jalandhar Cantt then as he stated the deceased and he might have taken about 20-25 minutes from his house to Railway Station Jalandhar Cantt on cycle. Similarly as per A/W-1 Kashmir Kaur, the traveling ticket was purchased his some relative for the deceased. Whereas on the other side A/W-2 has stated that the deceased has purchased his traveling ticket himself. A11 these contradictions and no description in the claim application about A/W-2, proved that the plaintiff after filing his claim, in order to prove his case, intentionally has taken support of a false evidence as a A/W-2.”

6. Tribunal while deciding issue No.2 found that mere presence of dead body on the railway track or its surrounding cannot be a basis to hold that a person died after fall from the train. Tribunal accordingly held that the claimants failed to prove untoward incident as claimed.

7. Counsel for the appellant has assailed the findings recorded by the Tribunal. He submits that finding on issue No.2 cannot be sustained in view of conclusions recorded in DRM report which is a document produced by railway authorities themselves before the Tribunal.

8. He further submits that the Tribunal erred in misreading affidavit of AW-2. The contradictions pointed out by the Tribunal, in fact do not exist. He submits that the Tribunal completely misread the evidence on record which has lead to perversity in the findings and thus,



the award passed by the Tribunal cannot be sustained and be set aside and the claim petition filed by the claimants be allowed.

9. Further reference is being made to the ratio of law laid down in ***Union of India vs. Rina Devi, 2019 (3) SCC 572*** to submit that once affidavit of the person who has accompanied the deceased on the fateful day and was eye witness of the purchase of ticket, has gone unrebutted, finding with respect to deceased being not a bonafide passenger recorded by the Tribunal, cannot be sustained being in teeth of law as well.

10. *Per contra*, Mr. Arora submits that Tribunal rightly discarded the testimony of AW-2 who in his cross-examination explicitly admitted that he did not even remember the date of the incident and never disclosed the facts of the accident to the counsel representing the claimants. He submits that reliance upon testimony of AW-2 thus has been rightly discarded by the Tribunal. He further submits that the fact that the body was cut into pieces is matter of record and the only inference that can be drawn is that the deceased in fact did not die of fall from the train as it is not possible for a person who falls from the train to come under the same.

11. I have heard counsel for the parties and have carefully gone through the records of the case.

12. So far as the issue with respect to cause of death of the deceased Jarnail Singh is concerned, the railway authorities cannot be allowed to discard the communication/DRM report which has concluded as under:-



“Subject:- Enquiry Report of untoward incident occurred on 16.06.2011.

Reference:- DS/RPF/NR/FZR I No.- 18/ RPF/untoward-66/FZR/11/3590 date-24.8.011

Sir,

In compliance with the above-referred letter regarding the subject matter, the enquiry was conducted in the following manner:-

Sir, in relation to the untoward incident that occurred on 16.06.2011 near BES-DEN Sec KM 468/1-2, certified copies of the train signal register from Station Master Vyas, Station Master Diary, and Memo Book were obtained. Upon examining the said records, it was found that on 16.06.2011, an untoward incident had occurred near km No. 468/1-2. However, how and by which train the incident occurred, could not be confirmed. As per both books, the information about the said incident was given to Station Master Vyas by SSE/TRD/ASR over the phone.

On the basis of the Memo Book, statement of SSE/TRD/ASR was recorded, then Shri Jatinder Tandon stated that on 16.06.2011, he was doing OHE work at Vyas Yard. Around 21/ Hrs, when he was coming toward the station, he saw a person lying in an unconscious condition near the track KM No. 468/1-2, the information thereof was given to ASM On-Duty Guard. I don't know from which train the person met with the accident. This is my statement. The statement is attached with the file along with certified copies of the Train Signal Register, Station Master Diary, and Memo Book.

Sir, statement of Sh. H.K. Meena HQ Ldh on duty guard on T No. 15933 dated 16.06.2011 was recorded, who in his statement disclosed that on 16.06.2011, he was assigned the duty at T.No. 15933 up as Guard from Ludhiana to Amritsar. The driver Shri Gomti Prasad from HQ/SRE was on duty with me. The train departed from Ludhiana at 19/15 hours, reached Jalandhar City at 20/10 hours, and left from there at 20/20 hours. Then reached at Vyas station at 20/51 and left at around 20/53 hrs and reached Amritsar at 20/40 HRS. Between



Jalandhar and Amritsar, no ACP incident occurred in the train, nor did any accident take place, and no such information was received from Station Master, passengers, or any individual. The statement is attached along with the guard memo book copy as evidence.

Sir, in order to record the statement of the on-duty driver Shri Gomti Prasad HQ/SRF of T. No. 15933 on 16.06.2011, SSE/LOCO /SRF was communicated, who told in writing that due to the sudden demise of the said driver's daughter, he was on leave from duty till 10 April 2012. Hence, the statement of the said driver could not be recorded. The letter is attached with file.

Sir, upon examining the records received from GRP/ASR, it was found that during the personal search of deceased Jarnail Singh, no ticket issued by the railway was recovered. The dead body at the spot was identified by boy Malkit Singh and relative (Sadhu) Kishan Singh. It was also not mentioned in the GRP report that the accident occurred due to which train. The proceedings under Section 174 CrPC initiated. The relevant documents are attached with file.

Conclusion:- Sir, in the aforesaid claim matter, the deceased Jarnail Singh's wife, Kashmir, had claimed that the deceased had left from Jalandhar City to Beas by Dibrugarh Express train around 8:00 PM on 16 June 2011. On the way, due to heavy rush of passengers, he fell after being pushed and died. However, Sir, on 16.06.2011, Guard Shri H.K. Meena, HQ/LDH, who was on duty with train no.15933 Dibrugarh Express, stated in his memo that no accident occurred with the said train on 16.06.2011 and no ACP was pulled in the train. There is no mention of any accident in the Station Master Beas Diary, Train Signal Register, or with train no. 15933. Additionally, in the personal search of the deceased conducted by GRP/BES, no certificate or ticket issued by the railway was recovered from the dead person, which clearly indicates that the deceased was not a railway passenger, nor was he a bonafide passenger.

The report is submitted for your service.”



13. From the conclusion, it is proved that Jarnail Singh died due to fall from the train.

14. So far as issue with respect to bonafide passenger is concerned, Supreme Court in ***Rina Devi's case (supra)*** observed as under:-

“15.4 Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (supra) and Kalandi Charan Sanhoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (supra) holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.”

15. Lakhwinder Singh who has accompanied the deceased stated that the ticket was purchased by deceased in his presence. Tribunal has discarded his testimony holding that Lakhwinder Singh in his affidavit stated that he alongwith deceased left his house at 7.00 p.m., whereas he claimed of having purchased tickets at 6.30 p.m. The observation made is against the record and is result of misreading of statement of Lakhwinder Singh. He in his affidavit nowhere stated that he alongwith deceased left from his house at 7.00 p.m. Rather, he stated that he left



the deceased at Station around 7.00 p.m. Merely for the reason that Lakhwinder Singh in his cross-examination stated that he does not remember the date of the incident being an illiterate person, his testimony cannot be discarded.

16. In view of above, this Court finds that once Lakhwinder Singh who claimed to be an eye witness to the purchase of ticket appeared before the Tribunal and stated so on oath and his statement has gone unrebutted, the claimants satisfied the ratio laid down by Supreme Court in *Rina Devi's case (supra)*. Resultantly, finding on issue with respect to bonafide passenger cannot sustained and hereby set aside.

17. Appeal stands allowed.

18. The accident relates to the year 2011. Thus, the compensation shall be as per part I of the Schedule appended to the Railway Accident & Untoward Incidents (Compensation) Rules. Compensation of Rs.4,00,000/- along with interest @ 9% per annum or Rs. 8,00,000/- whichever is higher is payable for the period from the date of application till the date of actual realization.

19. The claimants shall move an appropriate application giving details of their bank account before the Tribunal within a period of 4 weeks with an advance copy to the Railways. After receiving advance copy with respect to details of bank accounts, Railways shall within a further period of 12 weeks deposit the entire compensation payable to the claimants in the bank accounts. In the event of failure of Railways to deposit the compensation within the prescribed period of 12 weeks, the



Railways shall be liable to pay interest @9% per annum from the date of passing of this order till the date of actual realization.

18.07.2025

Dinesh

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable :

No