

BEFORE THE RAILWAY CLAIMS TRIBUNAL, CHANDIGARH BENCH,
CHANDIGARH

CORAM: SHRI SHAILENDRA K. SHARMA, HON'BLE MEMBER(TECHNICAL),

**SHRI VIRENDER KUMAR GOYAL, HON'BLE MEMBER (JUDICIAL),
RCT, BHUBANESWAR , HEARD THE CASE THROUGH
VIRTUAL MODE**

Case No:	OA-IIu/CDG/78/2022
Date of filing:	01.11.2022
Judgment reserved on:	05.12.2023
Judgment pronounced on:	20 .12.2023

1. Sameri Devi w/o late Sh.Baljeet Singh (D.O.B.01.01.1963).
2. Sanjeev Kumar s/o late Sh.Baljeet Singh (D.O.B.02.09.1981).
3. Nafe Singh s/o late Sh.Baljeet Singh.(D.O.B.08.03.1983)

All residents of Village Budhanpur (Chamarkhera), Pundrak (9), CSSRI,
Tehsil and Distt.Karnal.

4. Suman Devi w/o Jasbir (Daughter of late Sh.Baljit Singh), (aged about
35 years) R/o Vilage Dubarki, Nalipar Tehsil & Distt.Karnal-132022.
5. Kavita Rani w/o Sh.Narender Pal (Daughter of late Shri Baljeet Singh),
(aged about 33 years)R/o Village New Bohli Panipat, Distt.Panipat-
132103.

..Applicants.

Versus

Union of India through its General Manager, Northern Railway, Baroda House,
New Delhi.

... Respondent

APPLICATION FOR CLAIM COMPENSATION

Shri Subhash Sachdeva, ld.counsel for the applicants (Through
virtual mode).

Shri Varun Dhawan, ld.counsel for the respondent.

BY SHRI SHAILENDRA K. SHARMA, MEMBER (TECHNICAL)

1. This claim application has been filed by the applicants, (being the wife, sons and daughters of the deceased), under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act. They claim themselves to be the dependents of the deceased. They seek compensation of Rupees Ten Lakh along-with 15% interest from the date of accident till its realization, on account of death of Shri Baljeet Singh, in an alleged untoward incident, which occurred on 28.01.2022 while travelling by Passenger Train.

2. It is averred in the claim application that on 28.01.2022, Shri Baljeet Singh (since deceased) told his wife that he was going to his brother-in-law's house (Jija Inder Singh), who reside in Kurukshetra to enquire about his health as he had suffered heart attack; that Shri Baljeet Singh (since deceased) left home at about noon and after having reached Railway station Karnal, he purchased railway ticket, bearing No.47301606 dated 28.01.2022 of Mail/Express Train at 14.06 hours from Karnal for going to Kurukshetra; that after some time, train, in question, arrived Karnal railway station and the deceased boarded the train in question; that when the train, in question, reached near Kurukshetra railway station, he accidentally fell down from the train and sustained serious multiple injuries on the vital parts of his body and died at the spot; that one unknown person gave intimation to the Station Master, Kurukshetra that one dead body is lying under the platform no.2 towards Amin side; that on receipt of said information, the on duty Station Master, Kurukshetra, issued Station Memo to GRP & RPF/Kurukshetra; that on receipt of Station Memo, GRP & RPF reached the spot and started investigation; that during the physical search on the dead body of the deceased, a railway journey ticket, bearing No.47301606 of Mail Express train Ex.Karnal to Kurukshetra alongwith one diary were covered; that IO/GRP/Kurukshetra informed the legal heirs of deceased; that on receipt of

information, Shri Sanjeev Kumar and Nafe Singh alongwith other relatives reached GRP Police station, Kurukshetra and thereafter they went to Hospital, where they identified the dead body of the deceased. It is also submitted that at that time, both the applicants were not in a position to give their statements to GRP and the GRP officials obtained the signatures of applicants no.2 & 3; that applicants enquired about the death of their father from railway station Kurukshetra; that their Bua, who is residing at Kurukshetra, came to know that the deceased died after having fallen down from the train, whereas IO/GRP mentioned in their report that the deceased had committed suicide; that the applicants no.1 & 2 had moved an application to SP/GRP/Ambala Cantt. asserting to reinvestigate the matter, which is pending

3. Written statement was filed, by way of reply, wherein the respondent denied the incident and also disputed the various averments made in the claim application. It is submitted by the respondent that the present application is not maintainable, because neither the alleged incident falls within the ambit of an untoward incident as is defined under Section 123(c)(2) read with Section 124-A of the Railways Act, 1989, nor the deceased was a bonafide passenger; that as per the claim petition, the claimants have stated that the deceased-Baljeet Singh was travelling from Karnal to Kurukshetra in order to meet his brother-in-law as he was not keeping good health; that the deceased allegedly purchased one ticket, bearing No.47301606 of Geeta Jayanti Mail Express Train dated 28.01.2022 at 02.06 PM from Karnal railway station for his onward journey to Kurukshetra and the deceased boarded train from Karnal and when the train reached near Kurukshetra railway station, he accidentally fell down from the train. However, as per the findings of DRM's report, it came to the fore that on 28.01.2022 at 04.20 PM, an unknown person informed the on duty Station Master, Kurukshetra that dead body of a person was lying near platform no.2 on the down side at KM No.155/02; that on receipt of said information, the on duty

Station Master, Kurukshetra, issued Station Memo to GRP/RPF/Kurukshetra; that as per the statement of Shri Rakesh Kumar, Loco Pilot of Geeta Jayanti Mail Express Train i.e. Train No.11841/11842, the train reached platform no.3 of Kurukshetra railway station at 12.03 PM and departed from there at 03.10 PM and no such incident had occurred from his train. It is next contended that it is not possible that the deceased was travelling from the said train as the deceased had purchased the said ticket from Karnal railway station on 28.01.2022 at 02.07 PM and only Train No.11842 had passed from line no.5 between 12.03 PM to 4.20 PM; that the ticket recovered during the physical search on the dead body of the deceased i.e. Ticket No.47301606 was purchased from Karnal station on 28.01.2022 at 02.07 PM for travelling from Karnal to Kurukshetra, whereas the dead body of the deceased was found on line no.5 of Kurukshetra railway station, on which only Train No.11842 had passed through between 12.03 PM to 04.20 PM, hence, in these circumstances it makes it clear that the deceased was not travelling by Train No.11842; that it could not be ascertained as to how the deceased reached at line no.5 near Kurukshetra railway station; that even if it is taken into consideration that the deceased was travelling in Train No.11842, then the deceased cannot be called as a bonafide passenger as no ticket Ex.Kurukshetra to Karnal has been recovered from his possession, thus he can't be considered as a bonafide passenger. It is also contended that during investigation by RPF, Shri Sanjeev Kumar (son of deceased-Baljeet Singh) made a statement to the effect that the deceased was suffering from health issues since long time and had been taking treatment from PGI/Rohtak and due to his illness, he was under depression; that on 28.01.2022 at around 1 PM, the deceased left home and did not return back. It is further stated by him that on seeing the photograph, it seemed that the deceased had committed suicide, as the deceased was under depression due to his illness, however, in his another statement on 4.1.2023, Shri Sanjeev Kumar gave contrary statement to his previous statement made on 28.01.2022 and

29.01.2022; that as per the photograph and site plan, it completely indicates that the deceased would not have fallen down from the moving train. Rest of the paragraphs were denied and it was prayed that the claim application be dismissed with costs in the interest of justice against the applicants.

4. The applicants, in support of their claim, have tendered into evidence certain documents, besides evidence by way of affidavit of applicant no.2-Sanjeev Kumar (son of the deceased) as AW-1.

5. On the other hand, the respondents also submitted various documents which include DRM's report.

6. No replication was filed by the applicants. On examination of the pleadings, the following issues were framed for adjudication:

- 1) Whether the deceased was a bonafide passenger of the train at the time of incident?.
- 2) Whether the incident is covered within the ambit of an untoward incident as defined under Section 123(c)(2) read with Section 124-A of the Railways Act,1989?
- 3) Whether the applicants are the only dependents of the deceased?
- 4) Relief.

FINDINGS

7. We have heard the arguments from both the sides and perused the material on record.

ISSUE No.1 & 2

8. Both these issues are inter-connected, hence, the same are disposed of simultaneously.

9. At the very outset, the ld.counsel for the respondent contended that although during the physical search on the dead body of the deceased, the

alleged journey ticket, bearing No.47301606 dated 28.01.2022 Ex.Karnal to Kurukshetra, was recovered, but the mere possession of the alleged journey ticket does not go to prove this fact that the deceased was travelling in any train on the alleged day and at the time of incident, because the alleged Train No.11841 (Geeta Jayanti Mail Express), in which the deceased was alleged travelling, departed from Karnal railway station on 28.01.2022 at 11.24 hours and reached Kurukshetra at 12.05 hours, whereas the alleged journey ticket was issued from Karnal Railway Booking Window at 14.07 hours, hence, in the face of the alleged journey ticket, which was issued much after the departure of Train No.11841 from Karnal railway station, it can't in any way be connected with the alleged journey of deceased Ex.Karnal to Kurukshetra and accord him the status of a bonafide passenger. He next contended that the possibility of procuring the alleged ticket to make journey of the deceased as legal can't be ruled out.

10. On the other hand, the ld.counsel for the applicants contended that the recovery of the alleged journey ticket from the possession of the deceased is sufficient to accord him the status of a bonafide passenger and the mere fact that the alleged ticket does not match with the timings of Train No.11841, does not take away his case from the ambit of Section 2(29) of the Railways Act, 1989, because there may be chances that the deceased might have under taken his journey by some other Mail/Express Trains departing from Karnal after 14.07 hours i.e. time of issuance of the alleged journey ticket. The ld.counsel for the applicants also submitted that they had not mentioned journey by Train No.11841, however, vide para 2(e) of the claim petition, he mentioned the name of the train that may have passed in the direction where the victim was found in a range of 2 hours before and after the time when incident is suspected to have happened. He next contended that the evidence in such cases have to be evaluated on the basis of preponderance probabilities.

11. After hearing both the ld.counsel for the parties and going through the evidence on record including TSR of Kurukshetra railway station vis-a-vis DRM's report, we are inclined to agree with the contention put forth by the ld.counsel for the respondent. Our reasoning is based on the following facts.

12. It needs to be mentioned here that Section 124-A of the Railway Act, 1989(for short, "the Act") entitles a passenger to claim compensation, who has been injured or the dependants of the deceased, who have been killed in an untoward incident, as defined under section 123(c)(2) of the Act *ibid*. The word 'passenger' has been defined under section 2(29) of the Act as 'a person travelling with a valid pass or ticket'. It is only when the fact of the injured or the deceased being a bonafide passenger of train is established that the question of payment of compensation arises in case the incident is held to be an untoward incident.

13. The first requirement for the applicants is to prove that the deceased was a bonafide passenger of the train in question. Although the applicant no.2, Sanjeev Kumar, has tendered into evidence his affidavit in support of his aforesaid averments and also placed on record a photo copy of the alleged journey ticket, bearing No.UAE-47301606 dated 28.01.2022 Ex.Karnal to Kurukshetra, but the same can't be given any weightage, because in the amended copy of **Check-list under column no.4(a) attached to Claim application (Page No.29)** as well as **para no.2(e) of the Claim Application (page no.32)**, it has specifically been alleged that the deceased, on the strength of aforesaid journey ticket, bearing No. UAE-47301606 dated 28.01.2022, had most probably undertaken his journey Ex.Karnal to Kurukshetra by Train No.11841 (Geeta Jayanti Exp.Train).

From the perusal of **TSR (Page No.22 to 25 of DRM's report)** as well as **Guard's Rough Journal of Sh.Rakesh Kumar (Page No.31 & 32 of**

DRM's report), Guard/HQ/Panipat, who worked Train No.11841 on 28.01.2022, it is revealed that Train No.11841 (Geeta Jayanti Mail Express) departed from Karnal (KUN) railway station at 11.24 hours and arrived Kurukshetra (KKDE) at 12.15 hours, whereas as per DRM's report, the alleged journey ticket, bearing No.UAE-47301606 Ex.Karnal to Kurukshetra, was issued from Ticket Window Karnal railway station at 14.07 hours, meaning thereby that Train No.11841(Geeta Jayanti Mail Express), in which the deceased was allegedly travelling as per the version of the claimants, had already left Karnal i.e. at 11.24 hours much prior to the issuance of the alleged journey ticket, which was issued at 14.07 hours from Karnal Railway station and the said Train No.11841 (Geeta Jayanti Express Train) was received on line no.5 (Platform no.2) of Kurukshetra railway station at 12.03 hours, where it was finally terminated. Hence, the alleged journey ticket, in no way, can be connected with the alleged journey of deceased ex.Karnal to Kurukshetra on 28.01.2022, thus, the assertion of the ld.counsel for the applicants that the deceased under-took his journey, on the strength of the alleged journey ticket, by Train No.11841 (Geeta Jayanti Mail Express) Ex.Karnal to Kurukshetra, is completely devoid of any force.

14. Secondly, if for the sake of arguments, it is assumed that the deceased might have boarded some other Train departing from Karnal (as was argued by the counsel for the applicants during arguments) after issuance of the alleged journey ticket i.e. at 14.07 hours and reaching Kurukshetra upto the time of alleged incident i.e. 16.20 hours, even then the said assumption does not sustain at all, because from the perusal of TSR attached with the DRM's report annexed at Page No.22 to 25, it is transpired that the following Trains i.e. Train No.12715, 14507, 12459 passed from Karnal after issuance of alleged journey ticket and prior to the spotting of the dead body of the deceased near the track i.e. at 16.20 hours on line no.5 (platform no.2), however, these Trains, after

arrival at Kurukshetra, were received on line no.4, Line no.1 & Line No.1 respectively. For the sake of convenience the Chart pertaining to aforesaid trains is enumerated below:

DETAILS OF TRAINS TAKEN FROM TSR ATTACHED WITH THE DRM'S REPORT PASSING KARNAL RLY STATION AFTER ISSUANCE OF ALLEGED JOURNEY TICKET I.E. AT 14.07 HOURS AND REACHING KURUKSHETRA RAILWAY STATION PRIOR TO SPOTTING OF DEAD BODY OF THE DECEASED I.E. AT 16.20 HOURS ON 28.01.2022 AT LINE NO.5 (PLATFORM NO.2 OF KURUKSHETRA RAILWAY STATION)

S.No.	TRAIN NO.	SCHEDULED DEPARTURE FROM KARNAL RAILWAY STATION	ARRIVED AT KURUKSHETRA	RECEIVED ON LINE NO.
1)	12715 (Sachkhand Express)	About 14.25 hours	14.50 hours	Line No.4
2)	14507 (Delhi-Fazilka Express)	15.15 hours	15.48 hours	Line No.1
3)	12459 (New Delhi-Amritsar)	15.26 hours	16.08 hours	Line no.1

From the perusal of aforesaid chart, it is candid clear that the aforesaid Trains i.e. 12715, 14507 and 12459 were received on line.4, Line No.1 & Line no.1 respectively at Kurukshetra, whereas the dead body of the deceased was

found lying on line no.5 (Platform no.2 of Kurukshetra railway station), which goes to show that the deceased did not undertake his journey (Ex.Karnal to Kurukshetra) in any of the aforesaid trains, because had the deceased fallen down while travelling in any of the aforesaid Trains viz.Train No.12715, 14507, 12459, then his dead body would have been found lying near or on line no.1 & 4 and not on line no.5 (platform no.2). Thus, from this it can be deduced that the deceased had not undertaken his journey by the aforesaid Trains no.12715, 14507 and 12459, which departed from Karnal after the issuance of the alleged journey ticket at 14.07 hours, and reached Kurukshetra prior to the spotting of the dead body.

15. Thirdly, if we assume that on 28.01.2022 the deceased allegedly fell down while boarding Train No.11842 (Geeta Jyanti Express) at Kurukshetra railway station, which originated from line no.5(platform no.2) of Kurukshetra railway station at 15.10 hours for Karnal side, even then this assumption does not hold ground, because the alleged journey ticket, which was only valid for undertaking journey ex.Karnal to Kurukshetra and not from Kurukshetra to Karnal, hence, the alleged ticket can't in any way be connected with assumed journey Ex.Kurukshetra to Karnal and can't accord the deceased the status of a bonafide passenger.

16. In view of discussion held here-in-above, we are of the considered opinion that the alleged journey ticket does not pertain to the alleged journey of the deceased Ex.Karnal to Kurukshetra and the possibility of planting and procuring of railway journey ticket, particularly, when there is no independent witnesses to the Seizure Memo prepared by GRP, cannot be ruled out and the deceased cannot be termed to be bonafide passenger at the relevant time on date 28.01.2022.

17. So far as the issue of "Untoward Incident" is concerned, the ld.counsel for the respondent contended that as is candid clear from the PMR, Inquest Report

and photograph of the dead body of the deceased, which is duly corroborated by evidence available on record and the fact that the severed neck portion was lying inside the track, whereas residue part of the body, without any injury marks, was lying outside the track, this goes to show that the deceased might have committed suicide, hence, the alleged incident does not fall within the ambit of an “untoward incident”. He next contended that while Inquest proceedings were being conducted by GRP/Kurukshetra, Shri Sanjeev Kumar & Shri Nafe Singh, both the sons of the deceased, made their separate statements stating with one voice that their father-Shri Baljit Singh was suffering from ailment since long and despite having taken treatment from different places, he did not get recovery from his illness and because of said illness he was under depression. They next stated that on seeing the dead body of their deceased father, it seems that he has committed suicide by coming under the train.

18. On the other hand, the ld.counsel for the applicants contended that there is no expert evidence on this point brought on the record by the ld.counsel for the respondent that if the dead body of the deceased is found in such a condition and at such location, it is not possible for the deceased to have fallen down from the moving train and the mere fact of finding the dead body in cut up condition, whose half portion lying in the middle of the track, cannot be the basis of the conclusion that there was no untoward incident of deceased falling from train. Moreso, the respondent has not adduced any evidence in support of their plea. The ld.counsel for the applicants next contended that so far as the statements of Shri Sanjeev Kumar and Sh.Nafe Singh allegedly made before GRP & RPF on the point of “suicide” are concerned, these were not read over to them and their signatures were obtained on already recorded statements. Further, they were not in a position to give their statements before GRP at the time of incident as they wanted to take the dead body of their father and they have made complaint to Supdt. of Police/GRP/Ambala regarding mentioning of ‘suicide’ fact in their statements by GRP. In support of his contention, he has placed reliance on

judgment of Hon'ble Supreme Court delivered in case titled as Union of India versus Prabhakaran Vijay Kumar and others (Civil Appeal No.6898 of 2002) decided on 05.05.2008 reported in (2008) ACJ 1895 and another judgment of Hon'ble Jharkhand High Court at Ranchi, 2020, ACJ 2909.

19. After hearing the rival contention of the ld.counsel for the parties and perusing the entire case file including statements of Sh.Sanjeev Kumar & Shri Nafe Singh dated 28.01.2022 made before GRP & RPF dated 29.01.2022 and 04.01.2023(wrongly written as 04.01.2022) separately, the deposition of Sh.Sanjeev Kumar made before this Tribunal, PMR, Inquest report, location of the dead body of the deceased, photograph of dead body of the deceased, whose neck portion was lying inside the track, whereas residue part of the body, without any injury marks, was lying outside the railway track, we are inclined to agree with the contention of the ld.counsel for the respondent on the following reasons:

i) Firstly, so far as the contention of the ld.counsel for the applicants that the statements of Shri Sanjeev Kumar and Sh.Nafe Singh made before GRP & RPF can't be relied upon as these were not read over to them and the signatures of above named persons were obtained on the already recorded statements are concerned, this contention is not tenable, because from the perusal of statements dated 28.01.2022 (Ex. A-6 & Ex.A-7) pertaining to Shri Sanjeev Kumar and Shri Nafe Singh, it is transpired that, while giving their statements before GRP/Kurukshetra, both had stated with one voice that their father was suffering from ailment since long time and despite having treatment from different places, he was not cured. In the last line of their statements, they also stated that on seeing the dead body of their deceased father, it seems that he had committed suicide by coming under the train. The aforesaid extract of the relevant lines of statements of Shri Sanjeev Kumar and Shri Nafe Singh are reproduced below:

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Further, during investigation by RPF, Shri Sanjeev Kumar son of deceased-Baljit Singh made a statement i.e.AW-1/B (recorded by Ms.Rita Pathak, Sub Inspector/RPF/Kurukshetra) on 29.01.2022 stating that his father was suffering from ailment since long time and was taking treatment from PGI/Rohtak; that he was under depression due to his illness. In the ending line of his statement, he specifically stated that on seeing the dead body of his father, it seems that he had committed suicide because of this reason.

Besides above, RPF/Kurukshetra again recorded the statements of Shri Sanjeev Kumar and Shari Nafe Singh on 4.1.2023, wherein they stated with one voice that the death of their father had taken place while coming in the ‘**chapet of train.**’

During deposition before this Tribunal, Shri Sanjeev Kumar, AW-1, identified his signature at point Ex. AW-1/C. He specifically deposed that in his statement Ex.AW-1/C, he had stated that his father died due to coming across the train.

Now coming to the assertion of the ld.counsel for the applicants that signatures of Shri Sanjeev Kumar and Shri Nafe Singh were obtained by GRP on already recorded statements where reason of death due to suicide was already written and against the act of GRP officials, they had made complaint to Supdt.of Police/GRP/Ambala, the aforesaid assertion does not hold ground because the alleged statements were made by Shri Sanjeev Kumar and Shri Nafe Singh before GRP/Kurukshetra on 28.01.2022, whereas they sent a complaint to Supdt. of Police, GRP, Ambala Cantt. by registered post on 27.07.2022 i.e. after a gap of seven month of the alleged date of recording of their statements i.e.28.01.2022. Moreover, no outcome of the said complaint has been placed on

the record nor they tried to find out whether their complaint was recorded at SSP/GRP/Haryana/Ambala's office by bringing evidence from the record of SSP/GRP/Haryana and merely sending of complaint to SSP/GRP/Ambala is not sufficient to disown their statements made before GRP during inquest proceedings recorded under section 174 of the Cr.P.C and from this the only inference that can be drawn is that they had made the said complaint to SSP/GRP as an afterthought only to nullify their version relating to death of their father due to suicide by coming under the train. It is relevant to mention here that if the applicants, namely, Sanjeev Kumar and Nafe Singh were not satisfied with the findings of Inquest proceedings, submitted by GRP under Section 174 of the Cr.P.C, then they could have either moved an application before the concerned District Magistrate/Sub Divisional Magistrate, to whom the report is forwarded under Section 174(2) of the Cr.P.C., for passing appropriate orders on their complaint, or could have moved to the Hon'ble Punjab & Haryana High Court under Section 482 of the Cr.P.C for quashing the proceedings of Inquest Report, but no such action has been taken by the applicants in this regard. Further, they could have made a request to the Tribunal for summoning of the Investigating Officer/GRP/Kurukshetra as well as Inquiry Officer/RPF/Kurukshetra to confront this fact that they did not make any such statement which speaks that **'on seeing the dead body of deceased Baljit Singh it seems that he has committed suicide by coming under the train.'** But no such action has been taken on the part of the applicants and from this the only inference that can be drawn is that they own their statements made before the GRP as well as RPF which stand against them, particularly, when these statements were tendered into evidence as Ex.A-6 & Ex.A-7 by them through their counsel. Moreover, Shri Sanjeev Kumar, AW-1, is an educated person. This is beyond understanding and not digestible at all that he as well as his brother, Nafe Singh, had signed the already recorded statements without going through the contents of their statements. It is worthwhile to mention here that during his deposition before this Tribunal, Shri

Besides this, while receiving dead body of their deceased father-Baljit Singh from GRP/Kurukshetra against **Rasheed Lash (Ex.A-9)**, both Shri Sanjeev Kumar and Shri Nafe Singh have specifically mentioned that their deceased father Baljit Singh died due to suicide by an unknown train, the same is reproduce below:

11/11/2019

28.01.2022

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 29.01.2022

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2. 〇〇〇 〇〇〇〇 〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇 〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇 (〇〇〇〇 〇〇〇〇)
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v.Nitcto Roadways Ltd 1995 SCC Online Del 251, where it was held that “any document filed by either party passes through three stages before it is held proved or disproved. First stage, when the documents are filed by either party in the Court. Second stage: when the documents are tendered or produced in evidence by a party and court admits the documents in evidence. A document admitted in evidence become a part of the judicial record of the case and constitutes evidence; Third stage: the documents which are held “proved, not proved or disproved” when the court is called upon to apply its judicial mind by reference to Section 35 of the Evidence Act. Usually, this stage arrives at the final hearing of the suit or proceeding.”

Further, vide para no.11 of the judgment, Hon’ble Allahabad High Court in case titled as Ajodhya Prasad Bhargava v. Bhawani Shanker Bhargava and another, 1957, AIR (Allahabad) Page 1, has held that “once party admits the documents, which are exhibited on the record and an exhibit mark is put on them meaning that no further evidence is required to prove them. If he does not admit them the party producing them has to prove them in the ordinary manner.”

In view of the above discussed provisions of CPC, which are duly supported by the judgments of Hon’ble Delhi High Court and Allahabad High Court, we are of the opinion that statements viz.Ex.A-6, Ex.A7 & Rasheed Lash (Ex.A-5) pertaining Shri Sanjeev Kumar and Shri Nafe Singh, after tendering into evidence and marking the same as exhibits, these have become the part of judicial record and constitute as evidence. Hence, Shri Sanjeev Kumar and Sh.Nafe Singh can’t reside from their earlier statements which they had made before GRP and RPF.**

From all facts and circumstances of the case, particularly, bearing in mind the statements of Shri Sanjeev Kumar and Shri Nafe Singh made before GRP and RPF and **Rasheed Lash issued** dated 29.01.2022, wherein they have

clearly admitted that the death of their father-Baljit Singh occurred due to suicide while coming under the train as well as in deposition of AW-1, Sh.Sanjeev Kumar, admitted that the death of his father occurred while coming in the 'chapet of train', in these circumstances, the alleged incident can't be construed as an 'untoward incident'.

ii) Secondly, at the front page of PMR, the cause of death is specifically mentioned. **“Apparent cause of death as per inquest report-Suicide by Train.”** Post-mortem Report portrays injuries sustained on the person of the deceased. As per PMR, the body was present in two parts cut at the level of neck. Edges are lacerated on the open side of both parts. With debenuation of skin at neck of approx 25x5 cm as “V” shaped. In the open lower part cut part of spine at C5 to C7 with vertebral column and spinal injury present. Trachea and larynx were exposed along with major vessels. The PMR does not mention any other injury than the severing of the neck from the body which is not possible in case of death from fall in which there would be lacerated wound or some other injury on the body

iii) Thirdly, in Inquest Report, bearing No.06 dated 28.01.2022, prepared by GRP/Kurukshetra under Section 174 of the Cr.P.C, it is mentioned that the death of the deceased appears to have occurred by coming under the train after having committed suicide.

iv) As per site plan, the neck portion of the deceased was lying inside the track, whereas residue portion was lying outside the track.

v) From the perusal of photograph of the dead body of the deceased (**placed at S.No.45 of the DRM's report**), it can easily be transpired that there is no injury mark on any part of the dead body with clothes intact, except the severed neck portion was seen lying in within the track, whereas residue portion of the dead body was lying outside the track.

Thus, from the perusal of PMR report, Inquest Report, site plan and photograph of the dead body of the deceased, it is clear that the severed portion

of neck was found lying inside the track, whereas the residue portion of the dead body, without any injury mark, was found lying outside the track. It is very strange that there is no injury mark on any part of the dead body. In this context, it is relevant to mention here that a person falling from a running train because of its sudden movement/jerks/accidental slip is likely to suffer head injuries or abrasions/contusions/lacerated wounds all over the body or even the legs may be mutilated with torn clothes, because after falling down from the moving train, the body rolls over on the track and likely to sustain the aforesaid injuries, but the body can not normally be cut into two pieces that too within the track. **We are fortified in our views by observations of Hon'ble Delhi High Court delivered in case titled as Bhateri and others v.Union of India, 2018(4) T.A.C. 649(Del), Devkala Devi v.Union of India (FAO No.46/2016 decided on 28.8.2017), where it was held that "cutting of body into two pieces is possible only when a person either commits suicide or is run over."**

Further, the Hon'ble Delhi High Court in case titled as Dharambiri Devi and others versus Ministry of Railways, as reported in 149(2008) DLT decided on 13.03.2008, has held that "the body of the deceased being cut into two halves is not possible if the deceased fell out of the bogie through the exit if the train received a sudden jerk. A person falling of a bogie from the exit would have a trajectory which would drop him, if not a feet or two feet away from the train, atleast 6 to 8 inches from the train and the forward motion would throw the person forward and not laterally. Meaning thereby the body could not be cut into two by running train over."

Besides this, the Hon'ble Lucknow Bench of the High Court of Judicature at Allahabad in case titled as Tara Chand Mathur versus Union of India through General Manager (FAO No.763/2011 decided on 16.07.2012), has held that a person, who falls from a running train, will not

fall in between the railway track and ordinarily his body will not be cut into two or more pieces.”

vi) Fourthly, if for the sake of arguments, it is assumed that the deceased sustained the alleged injuries on his person after allegedly falling down from Train No.11841, even then this theory does not sustain at all, because Train No.11841, in which the deceased was allegedly travelling, departed from Karnal on 28.01.2022 at 12.03 hours, whereas the alleged journey ticket was issued at 14.07 hours i.e. much after the departure of the train, which goes to show that neither the deceased undertook his journey by aforesaid Train No.11841, nor he died while travelling in aforesaid Train No.11841 (Geeta Jyanti Train).

vii) Fifthly, if for the sake of arguments, it is assumed that the deceased boarded any of the Trains viz. Train No.12715, 14507 & 12459, which departed from Karnal railway station after issuance of the alleged journey ticket and reached Kurukshetra prior to the spotting of the dead body at the place of incident, even then this assumption does not sustain at all, because Trains no. 12715, 14507 & 12459 were received on Line no.4,1 & 1 respectively at Kurukshetra railway station, whereas the dead body of the deceased was found on Line no.5. Had the deceased died while travelling in any of the trains after issuance of the alleged journey ticket at 14.07 hours, then his dead body would have been found near or on line no.4 & 1, whereas the dead body of the deceased was found on Line no.5, which goes to show that neither the deceased undertook his journey by any of the aforesaid Trains viz.Train No.12715, 14507 & 12459, nor he sustained the alleged injuries on his person while travelling in any of the aforesaid Trains.

iv) Sixthly, now coming to the theory that the deceased died while coming in the ‘chapet of train’ or coming across the train, this theory also does not hold ground. Had the deceased died while crossing the railway line in the face of fast approaching train or coming in the ‘chapet of train’, then his body would have

been found in mutilated condition including serious injuries on his head as well as on other parts of the body besides grease marks on his body/clothes, because the fast running train threw the body away from it by its force, however, the dead body of the deceased was seen lying intact on the track, without any injury mark on it, except severed neck portion from rest of the body.

So far as the Apex Court's judgment titled as Prabhakaran Vijay Kumar's case(supra) cited by the Id.counsel for the applicants is concerned, with due respect to the judgment of Hon'ble Supreme Court, it may be mentioned here that the same does not apply to the facts and circumstances of the present case, because in Prabhakaran's case(supra) the death of the deceased occurred due to falling down from the running train as the deceased, in her anxiety tried to get into the moving train, whereas in case in hand there is no evidence that the death of deceased took place while falling down from the train, rather from the facts and circumstantial evidence available on record, the version of the respondent that the death of the deceased occurred because of suicide by coming under the train gains strength. Even AW-1, Shri Sanjeev Kumar, during deposition before this Tribunal admitted that it is correct that death of his father took place while coming across the train.

Now coming to the another authority viz. Uma Devi's case(supra) cited by the Id.counsel for the applicants, the same is also not applicable to the facts and circumstances of the present case, because in Uma Devi's case(supra), the deceased, who was travelling on a valid authority, fell down from the train due to overcrowding and push of the fellow passengers, but in the case in hand, it is proved on the case file that neither the deceased was a bonafide passenger, nor was a sufferer of an untoward incident.

20. Now the question arises that what had happened with body of the deceased, whose severed neck portion was found lying inside the track and residue portion of the dead body was lying outside the track. From the above facts and

circumstantial evidence available on record, particularly, keeping in mind the medical evidence available on record vis-a-vis the location of the dead body, whose neck portion was lying inside the track and residue portion of the dead body, without any injury mark with cloth intact, was lying outside the track, it can be deduced that it seems that the deceased might have committed suicide by putting his neck on the rail, which might have been severed from rest of the body by the wheel flanges of the train. Our observations are further corroborated from the findings of PMR report, where the doctor, who conducted the autopsy upon the dead body of the deceased, has mentioned on the first page of PMR the apparent cause of death as **‘Suicide by Train’, statements of Shri Sanjeev Kumar & Nafe Singh made before GRP & RPF, version recorded on “Rasheed Lash” and findings of Inquest Report** (column no.14 of the Inquest Report, bearing No.06 dated 28.01.2022), where clearly mentioned that death of deceased seems to have taken place by coming under the train after having committed suicide), all this goes to show that alleged incident of death of the deceased does not come within the ambit of ‘an untoward incident’ as the deceased might have committed suicide. **Our observations are relating to aspect of suicide having committed by the deceased while coming under the train find force from the observations delivered by the full court presided over by Hon’ble Justice H.S.Brar, Punjab State Consumer Dispute Redressal in case titled as Santosh Rani and Others vs.National Insurance Company and another((Original Complaint No.24 of 1999) decided on 20.09.2011, where in the similar circumstances it was held that where body was found in two pieces, neck portion was lying inside the track and rest of the body, without any injury mark was found outside track, it was held a case of suicide. The head note of the authority is enshrined below: Consumer Protection Act, 1986 Sections 14 & 17-Insurance Claim-The deceased had purchased a janta personal Accident Insurance Policy for which a sum of Rs.1650/- was paid as premium. He died during his journey**

when he was travelling by train and crushed by train cutting his body into two pieces. Claim was repudiated with the allegation that the deceased had committed suicide by putting his neck on the railway track. There was no other mark of injury on any other part of the head or rest of the body. From the facts of the case it was a case of suicide for which OP is not liable to pay the claim. Repudiation of claim upheld.”

21. In view of above reasoning, particularly, bearing in mind the condition of the dead body of the deceased vis-a-vis the location of the dead body, whose severed neck portion was lying inside the track and residue portion of dead body was lying inside the track that too without any injury mark on rest of the body and the fact in the PMR as well as in the Inquest report, it has clearly been mentioned that the deceased has committed suicide by Train, which fact has duly been corroborated by the statements of both the sons of the deceased, who during investigating by GRP stated with one voice that on seeing the condition of dead body it seems that their father had committed suicide, we have no hesitation in holding that the deceased, who was not bonafide passenger, was not a sufferer of an untoward incident, hence, the death of the deceased does not cover within the purview of an ‘untoward incident’ within the meaning of Section 123(c)(2) read with Section 124-A of the Railways Act, 1989, thus both these issues are answered against the applicants.

ISSUE NO.3

22. In view of our findings on the aforesaid main issues, which have been decided against the applicants, this issue has become redundant and does not require any finding. Hence decided accordingly.

ISSUE NO.4

23. In view of our findings on above issues that the death of deceased, who was not a bonafide passenger, was not on account of an untoward incident

within the meaning of Section 123(c)(2) read with section 124-A of the Railways Act, 1989, the applicants are not held entitled to get any compensation, accordingly, the claim application deserves dismissal and issue no.4 is decided against the applicants.

ORDER

- I) In the result, the O.A. is dismissed, being found to be devoid of any merit, and disposed of accordingly, but in peculiar circumstances of the case without costs.
- II) Copies of this judgment be sent to the parties through speed post.
- III) Case file be consigned to the record room

(VIRENDRA KUMAR GOYAL)	(SHAILENDRA K. SHARMA)
MEMBER(JUDICIAL)	MEMBER (TECHNICAL)
@ RCT, BHUBANESWAR	
THROUGH VIRTUAL CIRCUIT	
BEN CH AT RCT, CHANDIGARH	

Pronounced on
20th December, 2023