

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

**FAO No.8075 of 2015(O&M)**

**Date of Decision:02.04.2019**

**Geeta Devi and others**

.....APPELLANTS

Vs.

**Union of India**

.....RESPONDENT

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

**Present:** Mr.Shubhash Sachdeva, Advocate for  
Mr.Satinder Kumar Rana, Advocate for  
the appellants.

Mr.Rahul Garg, Advocate for the  
respondent-UOI.

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**DR. RAVI RANJAN, J.(Oral Judgment)**

This appeal is directed against the Judgment dated 14.08.2015 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh in Case No.OA-II/179/2012, by which the Tribunal has rejected the claim petition filed under Section 16 of the Railway Claims Tribunal Act, 1987 (for the sake of brevity 'the Act') seeking compensation of Rs.10,00,000/- on account of death of one Rajo Rishi @ Reju Rishi by his widow, minor daughters and mother of the deceased.

Short facts necessary for consideration of the *lis* stand enumerated as under:-

On 06.06.2012, the deceased along with Parmod Rishi, Sunil and others (total 15 passengers) boarded train No.15707 Katihar Express from Katihar Junction to Amabala Cantt. On 08.06.2012 early in the morning. When

the train reached between Panipat and Babarpur railway station, the deceased fell down from the train and sustained serious grievous and multiple injuries and died on the spot. Station Master informed the GRP regarding a dead body lying at Sector-6, railway track. The GRP, after reaching the spot, conducted inquest proceedings and recovered one identity card. On the basis of aforesaid, Falaka Police station was informed and communicate about the mishap to the family members of the deceased. The contractor of the labourers also contacted other co-travellers of the deceased who reached Panipat railway station and identified the dead body. It is claimed that the deceased was travelling on 2<sup>nd</sup> class ordinary mail-express train ticket bearing No.57710643 and 577710646 dated 06.06.2012 from Katihar to Ambala Cantt and, thus, would be entitled for compensation as he had died in an untoward incident within the meaning of Section 123(c) (2) read with Section 124 A of the Railways Act 1989.

The respondent-railways by filing written statement denied the averments made in the claim application and also denying that there was any alleged incident which can be brought in the ambit of Section 123(c) read with Section 124-A of the Railways Act 1989. The story is concocted one as no journey ticket was found from the search of body of the deceased. Rather, the tickets were produced later on and appear to have been planted which might have been procured from other passengers. There is no eye-witness to the alleged incident. It stands further mentioned in the GRP proceedings that the deceased might have struck against some pole. The injuries, if any, are self-inflicted and, as such, the case of the respondent-railways is that the deceased was neither a *bona fide* passenger nor he was a victim of untoward incident.

The Tribunal, on appreciation of rival pleadings, framed following issues:-

- “1. Whether the deceased was a bonafide passenger at the time of incident?
2. Whether the incident is covered within ambit of Section 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.”

The claimants-appellants, in order to substantiate their case, examined Smt. Jira Devi, i.e., one of the claimants and mother of the deceased. However, in cross-examination, she had admitted that she was not travelling with the deceased and she was informed regarding the incident by the police. She has further stated that Sunil was travelling with his son but was not aware of his accidental fall from the train. AW-2 Sunil has also supported the claimants' case and during cross-examination, he has stated that he had produced two tickets before the police after two days of incident. He handed over the tickets to the police in the presence of the contractor and his labourers but he was not knowing the name of the contractor. He has stated that he purchased 15 journey tickets which were separate for each travellers, however, he did not know whether the ticket on record was for him or for the deceased.

The claimants-appellants filed several documents also. Such as Ex.A-1 copy of letter dated 08.06.2012 written by GRP for conducting postmortem, Ex.A-2 death report dated 08.06.2012 prepared by the GRP, station memo dated 08.06.2012 at 07.00 hours Ex.A-4 fard jamatalashi dated 08.06.2012, Ex.A-5, fard peshkardagi ticket dated 10.06.2012 copies of the train tickets, statements of Sunil s/o Bigal Rishi, Shri Bejo Risho s/o Shri Lakdu Rishi, Smt. Geeta Devi w/o Shri Rajo Rishi before the GRP, Ex.A-11, postmortem report; Ex.A-12, Rashid Lash; Ex.A-13, Tasdik SHO; Ex.A-14, copy of voter card of Jira Devi, Ex.A-15, certificate from Mukhia Gram

Panchayat, Raj Maghaili.

The respondent filed DRM report disclosing that the deceased entered in the railways premises unauthorizedly and was run over by a train for which the respondent-railway was not responsible. The railways produced one Veer Bhan Singh ASI/RPF/Panipat, who has examined and cross-examined as RW-1. During examination, he has stated that he investigated the case and conducted secondary inquiry which was based on the documents received from railways and GRP. He concluded in his report that the deceased entered the railway premises unauthorizedly and met with the accident. However, his conclusion is merely based on the fact that there was no recovery of ticket from the dead body and secondly, Gaba Colony, in Sector-6 is in the vicinity of site of incident and the same is used by the public to cross the track. In the fard peshkardagi ticket, the name and details of the deceased was disclosed as Rajo Rishi @ Reju Rishi resident of District Katihar whereas in the PMR and receipt of dead body, the same witness who had presented the ticket and identified the deceased, has stated that the dead body being received for last rites was of unknown person. As per his experience of the witness RW-1, the person who falls down from the train is not likely to suffer the injuries as mentioned in the Post Mortem Report.

While deciding issue No.1, the Tribunal has placed reliance upon the pleadings and evidence including the DRM report produced by the railways and has found that it is strange that co-passenger could not know the accidental fall of the deceased and went up to Ambala Cantt. On 10.06.2012 and one of the co-passenger was informed by the police that the deceased had fallen down and died. The production of tickets later on does not prove the *bona fide* of the deceased person as there were 15 passengers in the group and tickets were not

issued by name. Ordinary tickets can easily be used by anybody in support of the case of accident. RW-1 Veer Bhan Singh has stated that, the same person who produced the tickets disclosing the name of the deceased, in a receipt while receiving the dead body, has stated that the deceased was unknown person.

The Tribunal has come to the conclusion, in view of the aforesaid discussion, that it was a pre-planned strategy of the appellants to produce the tickets which were not related to the deceased and since the *bona fide* of the passenger has not been proved beyond doubt, the Tribunal has taken a decision that the deceased was not a *bona fide* passenger.

While considering issue No.2, the Tribunal, on the basis of the statement of the person who had deposited the ticket with GRP on 10.02.2012 and other materials available, has come to the conclusion that it is proved beyond any doubt that the deceased had struck with a pole and got seriously injured and died. It shows the serious negligence on part of the person who was standing on the gate of the coach and has committed self-inflicted injury. Thus, the incident cannot be termed as an untoward incident within the meaning of Section 123(c) (2) of the Act.

Issue No.3 has been decided in favour of the applicants-appellants and by holding that the applicants-appellants, i.e., widow, three minor daughters and widowed mother of deceased would be the dependents upon the deceased. However, ultimately, issue No.4 has also been decided against the claimants in view of the findings recorded with respect to issue No. 1 and 2 and the claim application has been dismissed.

Learned counsel for the appellant has assailed the decision on diverse grounds:-

It is stated that the tickets could have been produced by one Sunil even after two days for the reason that he might be having all the tickets with him as 15 persons were travelling together. There may be a possibility that they could not communicate to each other at some point of time during travel and the factum of the deceased having fallen from the train remain unnoticed to the other co-travellers. Thus, it is contended that the non-suiting of the applicants-appellants on the ground that the deceased was not a *bona fide* passenger as the tickets were planted one and the incident was also not an untoward incident, is erroneous.

Learned counsel appearing for the respondent-railways has supported the impugned decision by saying that it is a clear cut case of planting the tickets subsequently and even the identity of the deceased was in question as the co-traveller Sunil has stated in the receipt given by him while receiving the dead body of the deceased that the dead body was belonged to unknown person. Whereas before the Tribunal and the police, he has stated that the deceased was travelling with him. This shows that he was not a co-traveller.

Upon appreciation of the rival consideration, this Court finds force in the submission raised on behalf of the appellants for the following reasons:

The Tribunal has not accepted the claim of the railway that the incident was result of illegally unauthorized crossing of railway track by the deceased as it has in clear terms recorded finding that the deceased has struck with a pole and got seriously injured while he was standing at the gate of the coach and, thus, has committed self-inflicted injury. The Tribunal has correctly not believed the story propounded vide the DRM's report or the testimony before the Tribunal as the basis of such assumption that the deceased was run over by a train while crossing the railway line near Babarpur railway station,

which is merely based on the fact that no ticket was recovered from the search of the dead body.

In my opinion, such assumption is not permissible. No prudent person would believe that a person who was resident of Katihar will come about 1200 kms. from Katihar to cross the railway line unauthorizedly at Babarpur and while doing that he would be run over by a train.

That apart, it is nowhere stated in the DRM's report that any Engine Driver or the Guard had informed the Station Master that somebody was run over by the train which was driven by that Loco-Pilot or was under the guidance of the said Guard. In the absence of that, aforesaid fact cannot be presumed because it would be the bounden duty of such railway personnel to inform immediately if a mishap has occurred costing a human life, to the Station Master of the nearest railway station so that he could act in accordance with law as mandated by Section 13 of the Act.

However, in my opinion, after correctly rejecting such limb of submission raised on behalf of the railways, the Tribunal has erred in holding that since the deceased was struck with a pole and got seriously injured and had died while he was standing on the gate of the coach and, thus, it has to be accepted as self-inflicted injury. There is no evidence like that. It is neither the case of the claimants nor the case of the railways. The case of the claimants is that due to heavy rush in the train, he fell down from the train and struck with the pole. Even it is assumed that a person is standing on the gate of the coach, there is no chance of his striking with a pole which would be at a safe distance from the door of the coach. It may happen only if he falls from the train and under the impact of kinetic energy, his body travels to some distance, due to which, he may come in contact of with a pole.

On the plain reading of Section 124 (A) of the Act, one can come to the conclusion that this beneficial piece of legislation is based upon no fault theory. If a passenger was travelling on the train and he falls down or any mishap has occurred costing his life then it is not to be inferred or inquired as to whether it was his own fault or the fault of the railways. Rather, he would be entitled for the claim on no fault basis. However, the condition would be that he is a *bona fide* passenger.

A reference in this regard is made to decision of the Hon'ble Apex Court rendered in **Union of India Vs. Rina Devi 2018 (3) R.C.R.(Civil) 40.**

For better appreciation, the relevant passages from the aforesaid decision are extracted as under:-

“16.6 We are unable to uphold the above view as the concept of ‘self inflicted injury’ would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on ‘no fault theory’. We may in this connection refer to judgment of this Court in United India Insurance Co. Ltd. versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on ‘no fault theory’ under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an ‘untoward incident’ entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor.”

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“17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a *bona fide* passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a *bona fide* passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the

basis of facts found. The legal position in this regard will stand explained accordingly.”

Further, in another decision rendered in '**Union of India Vs. Prabhakaran Vijay Kumar and others**' 2008 (9) SCC 527, the Hon'ble Supreme Court has held as under:-

“11. No doubt, it is possible that two interpretations can be given to the expression 'accidental falling of a passenger from a train carrying passengers', the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. Since the provision for compensation in the [Railways Act](#) is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence in our opinion the latter of the abovementioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred vide [Kunal Singh vs. Union of India](#) (2003) 4 SCC 524(para 9), [B. D. Shetty vs. CEAT Ltd.](#) (2002) 1 SCC 193 (para 12), [Transport Corporation of India vs. ESI Corporation](#) (2000) 1 SCC 332 etc.

12. It is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred. In other words, beneficial or welfare statutes should be given a liberal and not literal or strict interpretation vide [Alembic Chemical Works Co. Ltd. vs. The Workmen](#) AIR 1961 SC 647 (para 7), [Jeewanlal Ltd. vs. Appellate Authority](#) AIR 1984 SC 1842 (para 11), . [AILalappa Lingappa and others vs. Laxmi Vishnu Textile Mills Ltd](#)R 1981 SC 852 (para 13), [S. M. Nilajkar vs. Telecom Distt. Manager](#) (2003) 4 SCC 27(para 12) etc.”

Accordingly, it is held that the deceased, if was travelling on the train, even if came to door and got struck by the railway pole, in view of the aforesaid decision of the Apex Court, his dependents would be entitled for compensation under the relevant statute based on no-fault theory.

The Tribunal has held that the deceased cannot be treated to be a *bona fide* passenger for the reason that no ticket was found from his dead body by the police and after one or two days, somebody has produced the ticket which may be belonging to him or may not be belonging to him because 15 passengers were travelling together and it was not a reservation ticket but an ordinary ticket, as such, the name of the passenger is not printed there. In such a situation, it may be difficult to hold that the ticket belonged to the deceased but it would be equally difficult to hold that the ticket does not belong to him only for the reason that the names are not printed as the evidence is that the ticket was produced by a person who was travelling with him and the claim is that altogether 15 tickets were purchased as 15 passengers were travelling. However, for a moment, even if it is believed that no ticket has been found from the dead body of the deceased and the ticket produced later on would not be acceptable, in such a situation also, it can only be inferred that no ticket could be recovered but merely an identity card was recovered. But what happened to his other belongings? It is not stated either by the GRP or by the RPF or by the railway that extensive search of spot of accident and the nearby area was made to recover the other belongings of the deceased. In the absence of that, even if ticket is not found, it cannot be presumed that he was a ticket-less passenger. Reference is made in this regard with the decision of Hon'ble Apex Court rendered in **Union of India Vs. Rina Devi 2018 (3) R.C.R.(Civil) 40**. The Apex Court in paragraph 17.4 of the aforesaid decision has observed as under:-

“We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a *bona fide* passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or

deceased will not negative the claim that he was a *bona fide* passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.”

Thus, it is clear that on merely not finding a ticket from the dead body, it cannot be inferred that the deceased was not a *bona fide* passenger but, at the same time, merely finding a dead body in the railway premises or besides the track would also not be proof of the fact that he was a *bona fide* passenger and was victim of any untoward incident. For reaching to the just conclusion, the attending circumstances would have to be considered by the concerned Tribunal or the Court. In the present case, the deceased belonged to Katihar(Bihar). The claim is that he was going by the concerned train from Katihar to Amritsar and he fell down between Panipat and Babarpur. Now, the question is, if the railways considered the affidavit and claim of the applicants-appellants to be false then what is there explanation for finding a dead boy besides the railways track? In **Rina Devi (supra)**, the Hon'ble Apex Court has observed that if the claimants files affidavit explaining the relevant facts and circumstances then the onus would shift upon the railways to prove otherwise. The stand of the railway that he might have been run over by a running train, is merely based on assumption and presumption as no material is available on record to substantiate it. There is no evidence that after covering 1200 kms from Katihar, he had came to Babarpur to unauthorizedly cross the railway line and in the meantime, he was run over by a particular train. No railway driver or guard has informed regarding such incident to the Station Master of the nearest railway station. In such a situation, there is no other option than to accept the claim of the claimants that the deceased was a *bona fide* passenger and he was a victim of an untoward incident. This fact has been accepted by the

Tribunal also that he got injured while travelling on the train but it is stated that since he was standing at the door and he was struck with a pole which would be a self-inflicting injury, it cannot be held to be an untoward incident. The question is what is the evidence regarding the aforesaid fact that he was standing at the door and he was struck with a pole for his own fault and not due to push and pull of the passenger? Of course Sunil has stated that he might have been struck with a pole but he is not a witness to the actual incident. Therefore, it may be his own opinion but that can take a form of evidence. There was every likelihood that it could have happened in the said manner but in my opinion that also cannot be held to be a self-inflicted injury rather it would under the ambit of untoward incident within the meaning of Section 123(c) (2) of the Act as discussed above that the relevant statute is based on no fault principle.

The stand of the railway that, the said Sunil, while receiving the dead body had given a receipt showing that deceased was unknown, would also be not of much value inasmuch as the identity of the deceased was already available with the police from identity card which was recovered from the dead body. Sunil was also known to him as per his claim but above all, even if assumed that Sunil was totally unknown to the deceased then, when the police had already informed the relatives and others regarding the incident through Falaka Police Station, there would have been no occasion to hand over the dead body for last rites to an unknown person. It seems that something was written in the receipt in a routine manner and LTI or signature was taken over in the same.

In the result, in the absence of cogent evidence put forth by the railways, in my considered opinion, the justice has to tilt in favour of the applicants-appellants by holding that the deceased was a *bona fide* passenger and incident, in the attending circumstances, has to be taken as untoward incident within the meaning of Section 123(c) (2) of the Act and as such, the

claimants-appellants would be entitled for statutory compensation in terms of the provisions contained in Section 124(A) of the Act.

Now, the next question would be what would be the quantum of such statutory amount. Since the accident is dated 08.06.2012 and in terms of the schedule attached with the *Railway Accident and Untoward Incidents (Compensation) Rules, 1990*, the statutory compensation amount available on such date was Rs.4 Lacs. However, in *Rina Devi (Supra)*, the Apex Court has held that in case that amount, if calculated along with interest, comes to sum total less than amended amount of Rs.8 lacs which has been made effective from 01.01.2017, and if the Award was passed by the Tribunal after 01.01.2017, then the higher amount, i.e. Rs.8 Lacs has to be allowed to the claimants. In the present case also, even if 9% interest is added to Rs.4 Lacs, the sum total would come to much less than Rs.8,00,000/-. Though the Hon'ble Apex Court has held that such situation would be if on the date of the Award of the Tribunal, the amended provision became effective, however, in the present case, the Tribunal has rejected the claim of the claimants-appellants, therefore, there is no Award of the Tribunal but their claim is being allowed by the present decision of this Court. Thus, I am of the opinion that the date of present order would be relevant and, as such, the appellants-claimants would be entitled for compensation of Rs.8 Lacs along with interest @ 9% per annum to be calculated from the date of this order till the date of payment.

In the result, this appeal stands allowed and the impugned decision of the Tribunal save and except the findings recorded with respect to issue No.3, is quashed and set aside. The claimants-appellants are held entitled for statutory compensation amount of Rs.8 Lacs along with interest @ 9% per annum to be calculated from the date of this order till the date of payment. However, there

would be no orders as to costs.

Accordingly, 50% of the amount would be handed over to claimant-appellant No.1, i.e., Smt.Geeta Devi, who is widow of the deceased and so far as share of minors is concerned, 50% amount would be kept under the term of Fixed Deposit in any Nationalized Bank in their names to be withdrawn by claimants-appellants No. 2 to 4 after attaining the age of majority.

**(DR. RAVI RANJAN)  
JUDGE**

02.04.2019  
Anjal

**Whether speaking/reasoned?      Yes/No**

**Whether reportable?                      Yes/No**