

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

FAO-2177-2017 (O&M)
Date of Decision:-**04.08.2023**

SUNITA CHAUHAN AND ANR

... Appellants

Versus

UNION OF INDIA

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Deepak Gihotra, Advocate
for the appellants.

Mr. C.M. Sharma, Advocate
for the respondent-UOI.

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KARAMJIT SINGH, J. (Oral)

1. The present appeal filed under Section 23 of the Railways Claims Tribunal Act, 1987 (in short 'the Act'), is directed against the order of the Railways Claims Tribunal, Chandigarh Bench (in short 'the Tribunal') dated 17.11.2016, whereby the claim petition filed by the appellants, who are parents of deceased Ravinder Singh Chauhan, has been rejected.
2. The brief facts of the case of the appellants are that deceased Ravinder Singh Chauhan was holding MST (Monthly Seasonal Ticket) and was traveling in a train No.54011 Delhi-Rewari, on 6.8.2012 and an untoward incident took place and Ravinder Singh Chauhan died in the area of Railway Station Patli.

3. The claim petition was contested by respondent and the Tribunal framed the following issues:-
 - i. Whether the deceased was bona-fide passenger of the train at the time of incident.
 - ii. Whether the incident is covered within ambit of Section 123(c)(2) read with Section 124-A of the Railways Act.
 - iii. Whether the applicants are only dependents of the deceased.
 - iv. Relief.
4. The appellants adduced evidence by way of affidavit of Dalvir Singh Chauhan, father of the deceased and produced inquest report prepared by GRP, copy of MST and other documents.
5. On the other hand respondent produced affidavits of RW-1 Nitin Parik, Gaurd and RW-2, Mahesh Kumar, ASM/Gurugram along with DRMs inquiry report.
6. After hearing the counsel for the parties, the Tribunal rejected the claim of the appellants.
7. The Tribunal came to said conclusion on the ground that neither the train number nor its name has been quoted by the appellants and even the departure time and the station from where the deceased boarded the train have not been mentioned in the pleadings. That MST shown to be recovered by the police along with identity card is relating to travel from Rohtak to New Delhi and as such the same was not valid to travel to Patli station, which is situated between Delhi Cantt. and Rewari. The Tribunal further observed that the position of the body as

reported by memo shows the body lying on railway track, which is not possible in case of fall from a train. That RW-1, the guard of train No.54011 has deposed that no untoward incident had taken place at Patli station. Consequently issues No.1 and 2 were decided against the appellants.

8. However, the Tribunal while deciding issue No.3 held that appellants are the only dependents of deceased.
9. The counsel for the appellants while assailing the impugned order has argued that sufficient material is there to establish that it was case of untoward incident, as the dead body was found on the railway track and further valid MST was recovered from the dead body of the deceased.
10. The counsel for the Railways on the other hand while supporting the impugned order has argued that there is no illegality or perversity in the impugned order. It has been further contended that appellants cannot take any benefit of MST as the same was not relating to the route on which the deceased was alleged to be travelling when the incident had taken place.
11. I have considered the submissions made by counsel for the parties.
12. In the instant case, deceased-Ravinder Singh Chauhan boarded train No.54011 from Delhi which was going to Rewari on 6.8.2012. He was having monthly seasonal ticket which was valid up to 28.8.2012. It is the claim of the appellant that Ravinder Singh Chauhan fell from running train at Railway Station Patli. In order to establish their claim,

the appellants placed reliance upon death certificate Ex.AW1/1 of Ravinder Singh Chauhan, as per which, the deceased died at Railway Station Patli on 6.8.2012. Even as per inquest report prepared by GRP, death appears to have occurred due to fall from the train. Even as per post mortem report of the deceased, cause of death in this case was due to shock and hemorrhage, following ante mortem blunt force impact, consistent with the railway track accident. Even RW2-Mahesh Kumar, Assistant Station Master, Patli who was on duty at the time of untoward incident has stated in his affidavit that some unknown person informed him that one person has fallen from the train which had just left the station and has died being run over by the said train. Even as per report of DRM, it appears that the deceased who was stated to be illegally travelling in a train met with an accident due to his own mistake and negligence.

13. As held in **Union of India (UOI) v. Prabhakaran Vijaya Kumar and others** (2008) 9 SCC 527, Hon'ble Supreme Court observed that Section 124-A of Railways Act lays down strict liability or no fault liability in case of railway accident. When principle of strict liability applies, proof of negligence is not required. Once initial burden is discharged, it is the strict liability of railways to pay compensation.
14. In case of **Union of India v. Rina Devi**; AIR 2018 S.C. 2363, Hon'ble Supreme Court explained the concept of self-inflicted injury and held that principle of contributory negligence cannot be invoked in case of liability based on no fault theory. The Court further held that onus to prove that the deceased or injured was a bonafide passenger can be

discharged even in absence of a ticket if relevant facts are shown that the ticket was purchased but it was lost.

15. In the present case, admittedly, the deceased was having monthly MST which was valid from 30.7.2012 to 29.8.2012. However, even mere absence of ticket with the deceased would not negate the claim that he was bonafide passenger. In the instant case, there is possibility that the deceased may have boarded some wrong train. Even on this premise, the claim application could not be dismissed. It is not the case of the respondent that the deceased died on account of self-inflicted injuries or committed suicide or died due to his own criminal act or at the time of accident was under the state of intoxication or insanity.
16. The underlying object of Section 124-A of Railways Act is to compensate a bonafide passenger holding a journey ticket if he becomes a victim of an untoward incident. Proviso to Section 124-A has carved out circumstances under which passenger is not entitled for compensation. The present case is not covered within proviso to Section 124-A as has been discussed above.
17. In view of dictum of Hon'ble Supreme Court in Rina Devi's case (supra) and reiterated in **Kamukayi and others v. Union of India and others**; Civil Appeal No.3799 of 2023 decided on 16.5.2023, the findings returned by the learned Tribunal with regard to issues No.1 and 2 are not sustainable and are hereby set aside.
18. The findings given by the learned Tribunal with regard to issue No.3 are hereby affirmed being not challenged by anyone.

19. In light of above discussion, the present appeal is allowed and the impugned judgment/order dated 17.11.2016 passed by the learned Tribunal is set aside. Consequently, the claim application is allowed. The appellants are held entitled to compensation to the tune of ` 4 lakh along with interest @ 7% per annum from the date of filing the claim application till its realization in equal shares.

(KARAMJIT SINGH)
JUDGE

August 4, 2023
Gaurav Sorot/Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No