

[125.19] IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-2216-1999 (O&M)  
Reserved on 30.08.2024

Pronounced on 29.11.2024

Union of India ...Appellant

Versus

Kanta Bashambu and others ....Respondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Aditya Dassaur, Advocate  
for the appellant-UI.

Mr. R.K. Bashamboo, Advocate  
for the respondents.

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**PANKAJ JAIN, J. (ORAL)**

[1] This is an appeal directed against order dated: 04.03.1999  
passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh.

[2] Union of India is in appeal aggrieved by the order vide which  
claim petition of the claimants was allowed and compensation to the extent  
of Rs.2,00,000/- was awarded to the claimants on account of death of the  
deceased—Darshan Kumar, in an untoward incident relating to railways. The  
facts of the case are that on 26.07.1997, the deceased in the process of  
boarding the bogie, fell and got crushed under the train.

[3] The respondent-railways contested the claim by filing a written  
statement claiming that Darshan Kumar was not a bonafide passenger and  
that the injuries suffered by deceased leading to his death were self-inflicted  
injuries.

[4] The following issues were framed by the Tribunal:-

- “1. Whether an untoward incident took place within the meaning of Section 124A read with Section 123 of the Railways Act, 1989? OPA*
- 2. Whether the deceased was a bonafide passenger at the time of alleged accident? OPA*
- 3. Whether the respondents are entitled to protection under S.124A Clause (b) and (d) of Railways Act, 1989? OPR*
- 4. To what amount of compensation, if any, are the applicants entitled to get from the railway administration? OPA*
- 5. Relief. ”*

[5] Counsel appearing for the Union of India contends that the tribunal wrongly allowed the claim of the claimants and awarded Rs.2,00,000/- as compensation holding him a bonafide passenger and a victim of an untoward incident involving railways. He further contends that Darshan Kumar being an older person couldn't maintain balance. He slipped and fell on the track. He died due to his own negligence.

[6] Counsel for the claimant respondent contested the claim of the railways on the ground that there is overwhelming evidence on record to show that the deceased was a bonafide passenger. In the jamatalashi, a ticket No.88161, Kurukshetra to Ambala Cantt. was recovered from the deceased. There is no evidence to prove that the deceased had any intent to take his own life. Thus, Tribunal rightly allowed claim petition filed by the claimants.

[7] I have heard counsel for the parties and gone through the records of the case.

[8] It has come on record that a ticket was recovered from the clothes of the deceased. The evidence remained unrebutted. Once the claimants have proved on record that there was a ticket recovered, the burden shifted upon the railways to prove otherwise. Nothing was brought on record by the railways. Thus, it is held that the deceased was a *bona fide* passenger.

[9] The issue *qua* untoward incident is no longer *res integra*. The same has been decided by the Supreme Court in the case of ‘*Union of India vs. Rina Devi*’, 2019(3) SCC 572. Deceased died of fall from moving train. There is no allegation or evidence that injuries were self inflicted. In view of this issue *qua* untoward incident also needs to be answered in favour of the claimants.

[10] In light of above, finding no merit, the appeal preferred is hereby **dismissed** and the order passed by the Tribunal is *upheld*.

[11] All pending miscellaneous application(s), if any, stands *disposed off*.

(PANKAJ JAIN)  
JUDGE

29.11.2024  
'R. Sharma'

|                            |   |        |
|----------------------------|---|--------|
| Whether speaking/ reasoned | : | Yes/No |
| Whether reportable         | : | Yes/No |