

**FAO No.6730 of 2010(O&M)****-1-****234 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****FAO No.6730 of 2010(O&M)****Date of decision : 16.07.2024**

Partap Singh & ors.

...Appellants

Versus

Union of India

.....Respondent**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**Present : Mr. Sandeep Verma, Advocate,
for the appellants.Mr. Somesh Gupta, Senior Panel Counsel with
Mr. Kuldeep Singh, Advocate,
for the respondent.

PANKAJ JAIN, J. (ORAL)

1. Present appeal has been preferred against the award dated 19.02.2010 passed by the Railway Claims Tribunal. The claim petition was preferred at the behest of the appellants seeking compensation on account of death of Rajinder Singh, who died in a railway untoward incident.
2. As per the case of the claimants, deceased who was working in Sonipat Cooperative Sugar Mills, Sonipat and was resident of Panipat, used to come to Sonipat from Panipat daily. On the fateful day, while he was returning to his home after finishing his duties and boarded the train from Sonipat Station to Panipat, he fell down from the train and died. On 30.10.2007 his body was found mutilated on the track.
3. The claim was resisted by the respondent-department claiming



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that the incident does not fall under Section 124-A of the Railways Act, 1989 (for short 'the Act'). The deceased at the time of accident was not in journey. No train number and name has been mentioned.

4. On the basis of the pleadings, the Tribunal framed the following issues:-

- “1. Whether the deceased was a bonafide passenger?
2. Whether the alleged incident is covered within the ambit of Section 123 (c) (2) read with Section 124-A of the Railway Act?
3. Whether the applicants are the sole dependents of the deceased?
4. Relief.”

5. While deciding issue no.1, the Tribunal held that keeping in view the fact that the deceased was found dead at a far off place, which was not on way to his destination, he cannot be held to be a bonafide passenger.

Besides, finding reads as under:-

“The case of the applicants is that deceased was bonafide passenger of train as he was travelling with railway MST and ID Card. Respondent vide their DRM report has admitted the fact of recovering of MST etc and accordingly deceased was bonafide passenger but he was crossing the railway lines unauthorisedly.

6. Mr. Verma while assailing the aforesaid findings recorded by the Tribunal submits that the Railway MST (pass) and ID Card of the deceased having been proved on record, he ought to have been treated as a bonafide passenger and thus, the claimants were entitled for compensation on account of unfortunate death of the deceased. In order to appreciate the



arguments raised, he perused the Section 123 and 124 of the Act, which read as under:-

“123. Definitions—In this Chapter, unless the context otherwise requires—

- (a) “accident” means an accident of the nature described in section 124;
- (b) “dependant” means any of the following relatives of a deceased passenger, namely:—
 - (I) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;
 - (ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;
 - (iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;
 - (iv) the paternal grand parent wholly dependant on the deceased passenger;
- (c) “untoward incident” means—
 - (1) (I) the commission of a terrorist act within the meaning of sub-section (1) of section (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
 - (ii) the making of a violent attack or the commission of robbery or dacoity; or
 - (iii) the indulging in rioting, shoot-out or arson,

by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

- (2) the accidental falling of any passenger from a train carrying passengers.

124. Extent of liability.—

When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration



shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident.

Explanation.—For the purposes of this section “passenger” includes a railway servant on duty.

124-A. Compensation on account of untoward incidents.—

When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only of loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

- (a) suicide or attempted suicide by him;
- (b) self-inflicted injury;
- (c) his own criminal act;
- (d) any act committed by him in a state of intoxication or insanity;
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.—

For the purpose of this section, “passenger” includes—

- (i) a railway servant on duty; and
- (ii) a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.”

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

8. In order to maintain claim, the claimants were required to prove that the deceased died in his capacity as a passenger. Without doubt, the



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documents in form of MCT and ID card were proved. However, Mr. Verma could not dispute that the journey of the deceased was from railway Station Sonipat to Railway Station Panipat, whereas the body of the deceased was found at a place far away from both the stations.

In view of the above, this Court finds that no fault can be found with the findings recorded by the Tribunal to the effect that death of the deceased cannot be attributed to any accident while in journey as a passenger.

In view of the above, the present appeal is dismissed.

16.07.2024
monika

(PANKAJ JAIN)
JUDGE

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