



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125.16

FAO-1457-2014
Reserved on : 30.08.2024
Pronounced on : 29.11.2024

Smt. Ramwati and another Appellants

versus

Union of India Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Balkar Singh, Advocate
for the appellants.

Mr. Harmeet Singh Oberoi, Advocate
for the respondent-UI.

PANKAJ JAIN, J. (Oral)

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987, challenging the order dated 13.11.2013 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, whereby the claim of compensation filed by the appellant under Section 124A of the Railways Act, 1989, was dismissed. The appellant is seeking compensation on account of death of her son - Rahul, who allegedly died in an untoward incident while traveling as a bona fide passenger.
2. The facts of the case are that on 29.05.2010, the deceased along with his friend Vakeel was travelling from Nizamuddin to Agra on the Train No. 4878 Puri-Utkal Express. The deceased along with his friend purchased the ticket and boarded the train. Due to overcrowding the deceased's friend boarded in the next bogey. When the train reached



between Faridabad and New Town Faridabad, due to a sudden jerk, the deceased fell out of the train.

3. The respondent-Union of India, contested the claim of the appellant by way of a written statement. Averments were made that the said accident does not fall u/s 123(c) read with section 124-A of the Railways Act, 1989. It was further contended that the story is a concocted one as the deceased was not a bonafide passenger. Neither the ticket was purchased by him on 29.06.2010 from Hazrat Nizamuddin Railway Station to Agra nor he boarded any train. The respondents have also denied that any accident took place on that day.

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

- “1. Whether the deceased was a bonafide passenger of train 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 applicants is/are the sole dependents of the deceased?*
- 4. Relief.”*

5. Counsel appearing for the appellant submits that the Tribunal has wrongly rejected the claim holding that the deceased died while trying to board a running train and that he was not a bonafide passenger.

6. Counsel for the appellants submits that the Tribunal wrongly dismissed the claim petition and has misread the evidence on record. The Appellant appeared as AW-1, mother of the deceased and filed an affidavit. It was stated that he was travelling as a bonafide



passenger. The appellants have also placed on record inquest report as Ex- A2, Postmortem Report as Ex-AW3 to substantiate their claim.

7. Counsel for the respondent railways submits that the claim has been correctly dismissed as according to the G.R.P, the dead body and other parts were found in between the down line and platform area and on the basis of it, it was found that he fell down due to his own negligence as he was trying to board a running train.

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

9. Section 124A deals with liability of Railways to pay compensation to the victims on account of injuries/loss of life suffered owing to untoward incidents and accidents involving Railways. The aforesaid provision came on the statute book by way of Railways Amendment Act, 28 of 1994. The same came up for consideration before Supreme *Court* in the case of ***Rathi Menon v. Union of India (2001) 3 SCC 714, Union of India v. Prabhakaran Vijaya Kumar and others, (2008) 9 SCC 527, Jameela and others v. Union of India, 2010 AIR SC 3705, Union of India v. Rina Devi , (2019) 3 SCC 572 and Doli Rani Saha v. Union of India, Civil Appeal No.8605 of 2024 (Arising out of SLP (C) No.32962 of 2018).***

10. After considering the aforesaid precedents, this *court* dealt the issue elaborately in the case of ***Sandeep Narula and ors v. Union of India bearing FAO No. 2700 of 2016*** and observed as under:-

"15 In view of above, the following proposition can be culled :

(i) Railway is liable to pay to an injured ***passenger*** or to the dependents of a ***passenger*** killed in an untoward



incident involving railways. The **passenger** for the purpose of Chapter XIII of the Railways Act does not necessarily mean a **passenger** as contemplated under Section 2(29) of the 1989 Act. Rather explanation appended to Section 124A provides that the **passenger** shall include:

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

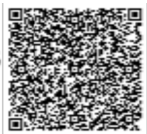
The definition is inclusive. It does not exclude any category. Definition of '**passenger**' as appended to Section 124A by explanation is much wider than the definition of '**passenger**' as provided under Section 2(29) of the 1989 Act.

(ii) As per the dictum of law laid down in **Rina Devi's** case (supra), once an affidavit is filed by the claimant that the victim was traveling on a valid ticket, the initial burden to prove that the victim was a bona fide **passenger** stands discharged. Thereafter, it is for the Railways to rebut the same to prove otherwise.

(iii) Untoward incident is different from accident. 'Untoward incident' is defined under Section 123(c) of the 1989 Act. Under five situations as contemplated under proviso appended to Section 124A, the Railway Administration may be absolved of its liability. Any other situation that does not fall within the ambit of proviso appended to Section 124- A, invites liability of Railway Administration to pay compensation. The compensation needs to be paid as per the mandate of statute as interpreted by the Supreme **Court** in **Rina Devi's** case (supra).

(iv) The liability of the Railway Administration is based on the 'principle of strict liability'. Plea of 'no fault of railways' or 'negligence of the victim' is not available to the Railway Administration."

11. The appellant has produced evidence on record that the deceased was a bonafide passenger and the same has gone unrebutted by the railways.



12. There is no evidence on record to prove any intentional act on part of the deceased which led to loss of his life. The incident does not fall within the five exceptions as contemplated under the proviso appended to Section 124A of the 1989 Act. Thus, the respondent/ Railways cannot be absolved of its liability and is required to pay compensation.

13. In view of above, the findings recorded by the Tribunal cannot be sustained and are hereby reversed.

14. The appeal is hereby allowed. The accident relates to the year 2010. Thus, the compensation awarded to the appellants shall be as per Part I of the Schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 prior to amendment dated 1st of January, 2017 i.e. Rs. 4.00 lacs along with interest @ 9% per annum payable for the period from the date of application till the date of actual realization.

(PANKAJ JAIN)
JUDGE

29.11.2024

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No