



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

264-1

FAO-5622-2023 (O&M)
Date of decision : 22.11.2024

Union of India and another Appellants

versus

Anil Kumar and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Shivoy Dhir, Senior Panel Counsel
for the appellants.

Mr. Ujval Mittal, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

CM-19096-CII-2023

This is an application for condonation of delay of 144 days
in filing the appeal.

For the reasons mentioned in the application, the same is
allowed. Delay of 144 days in filing the appeal stands condoned.

Main case

1. Challenge is to the order dated 14.02.2023 passed by
Railway Claims Tribunal, Chandigarh Bench, whereby the claim
petition filed by claimants seeking compensation under Section 124-A
of the Railways Act, 1989 on account of death of Tarun stands allowed.
2. Claimants filed claim petition claiming that on 16.03.2022,
deceased who was a student, going to Lovely Professional University,
Jalandhar for collecting his B.Sc examination degree, reached Railway



Station Rotak. He purchased journey-cum-reservation ticket to travel from Rohtak to Jalandhar City and boarded train No.22479 UP. When the train reached Railway Station Phagwara, the deceased accidentally fell down from the moving train resulting in his death. The defence pleaded by the railways was that the incident does not fall within the ambit of 'untoward incident' as it was a self inflicted injury, as the deceased himself jumped from the running train and due to his own negligence and fault received the injuries resulting in his death.

3. On the basis of pleadings, the Bench framed following issues:-

"1. Whether the alleged incident is covered within the ambit of Section 123(c)(2) read with Section 124-A of the Railways Act?

2. Whether the applicants are the only dependents of the deceased?

3. Relief."

4. After analysing the issues threadbare, the Tribunal allowed the petition filed by the claimants and held them entitled to receive compensation amount of Rs.8 lacs alongwith the interest.

5. Mr. Dhir, while assailing the impugned order submits that Tribunal erred in holding that the injuries were sustained by the deceased in an untoward incident as from CCTV footage, it is evident that the injuries were sustained by the deceased by falling down from the train at platform No.2 of Phagwara Railway Station. He thus submits that deceased himself being negligent, the railways cannot be saddled to pay compensation on account of his death.

6. *Per contra*, Mr. Mittal, counsel for the respondent submits that admitted case of the railway department is that the injuries were



sustained by the deceased in an attempt to get off at the station. The incident does not fall within the exceptions as carved out in a proviso appended to Section 124-A of the Railways Act and thus the Tribunal has rightly held the claimants to be entitled for compensation on account of death of Tarun in an untoward incident related to Railway Tribunal.

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

8. There is no serious dispute with respect to facts. The appellants also admit that the injuries were sustained by the deceased while get off from the train. The question is:

(i) Whether the negligence attributed by the railways to the deceased can absolve the railways from its liability to pay compensation?

9. The issue is no more *res integra*. The inter play between self inflicted injuries and the untoward accident stands explained by Supreme Court in the case of ***Union of India vs. Rina Devi***, reported as **2019(3) SCC 572**. Para 16.6 thereof reads 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. v. Sunil Kumar***, 2018(1) RCR (Civil) 680 : 2017 (13) SCALE 652 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.”

10. In view of above, this Court does not find any reason to interfere in a well reasoned order passed by the Railway Tribunal. The finding recorded by the Tribunal to the effect that the deceased lost his life in an untoward incident is well founded. It is not disputed that the death of the deceased occurred while he was trying to get off from the train.

11. In view thereof, the present appeal is dismissed.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

22.11.2024

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No