

122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3752-2019 (O&M)
Date of decision : 07.05.2025

Versus

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Mr. Prajwal Chauhan, Central Govt. Counsel
for the respondent-UOI.

PANKAJ JAIN, J. (ORAL)

3 However, Tribunal answered issue No.2 regarding untoward
incident against the claimant holding that the claimant suffered injuries
owing to his voluntary act. Tribunal further held that the possibility of the



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claimant being in the state of intoxication at the time of incident cannot be ruled out as he admitted of consuming 7-8 capsules of Proxicon every day.

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

5 So far as the consumption of 7-8 capsules of Proxicon is concerned, the Tribunal has relied upon the statement of the claimant recorded by RPF authorities during course of DRM's inquiry. The statement was put to him in his cross-examination before Tribunal. The claimant denied of giving any statement *qua* his addiction to RPF authorities. There is no medical evidence to prove the drug addiction of the claimant. The finding recorded is totally bereft of any backing by cogent scientific evidence. The issue regarding untoward incident has been elaborately explained by Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** observing as under :-

25. *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."*



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6 Thus there being no evidence to prove intention of the claimant to suffer a self inflicted injury, this Court does not find that the findings recorded by the Tribunal on issue No.2 can be sustained. The same is accordingly set aside. It is held that the claimant suffered amputation of left leg in an untoward incident while travelling as a bonafide passenger and is entitled for compensation as per the Railways Act, 1989.

7 The schedule appended to the 1989 Act provides for compensation of Rs.2,40,000/- in the case of amputation of leg.

8 Since the incident occurred on 24.06.2017, the claimant is entitled for compensation in terms of amended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990 i.e. Rs.2,40,000/-. The claimant is further held entitled for interest @9% per annum from the date of filing of the petition till the date of actual realization

9 Consequently, the present appeal is allowed.

10 Pending miscellaneous application, if any, also stands disposed off.

07.05.2025

*Pooja Sharma-I***(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No