



234 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4698-2019 (O&M)
Date of decision : 12.09.2025

Satbir & anr.

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. C.R.Narwal, Advocate
for the appellants.

Mr. Vipul Aggarwal, Senior Panel Counsel
for the respondent-UOI.

PANKAJ JAIN, J. (ORAL)

1 Challenge is to award dated 28.02.2019 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby claim petition filed by the claimants seeking compensation on account of death of Naresh while traveling by train as a bonafide passenger in an untoward incident stands dismissed.

2 As per the claimants, Naresh after termination of his journey alighted from the passenger train at Rohtak Railway Station. While he was coming out of Gate No.60-B, he was knocked down by Bhiwani Passenger Train No.54014. The claimants claimed that the deceased was travelling on a monthly season ticket (MST) at the time of incident.

3 Claim was resisted by the respondent-Railways. The status of the deceased as a bonafide passenger was denied. It was also denied that he



lost his life in an untoward incident. Tribunal while deciding issue No.1 held that the claimants failed to prove beyond doubt that Naresh was actually travelling by any train on the strength of a valid ticket/pass, and thus he cannot be held to be a bonafide passenger. While deciding issue No.2, the Tribunal held that the deceased died on account of his own negligence and thus cannot be said to be a victim of an untoward incident.

4 Learned counsel for the claimants has assailed the findings recorded by the Courts below. He has drawn the attention of this Court to the inquiry conducted by DRM, who in its report dated 28.03.2018 specifically recorded that in the jamatalashi of the deceased, a mobile and a railway pass bearing No.X4568144 were recovered. He submits that onus was upon the Railways to prove by leading cogent evidence that the aforesaid MST was not validly issued in favour of the deceased. Railways being in possession of the entire documents with respect to issuance of Railway pass was required to produce the same before the Tribunal. Railways having opted to withhold the aforesaid evidence; adverse inference needs to be drawn against the Railways. He further refers to ratio of law laid down by Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** to submit that there being no evidence regarding any intent of the deceased to suffer self-inflicted injuries and the fact of the deceased having died within the precincts of the Railway Station having been proved and admitted, the Tribunal erred in dismissing the claim application filed by the claimants.



5 Per *contra*, Mr. Vipul Aggarwal, Senior Panel Counsel for the respondent-UOI refers to the copy of the MST (Annexure A-3) and submits that the same is totally illegible. In view of the illegible copy supplied by the claimants, it was not possible for the Railways to verify MST ticket. He further submits that Gate No.60-B is quite far from the Railway Station and there is no evidence with respect to the journey of the deceased. Thus the Tribunal has rightly dismissed the claim filed by the claimants.

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

7 Mr. Aggarwal, Senior Panel Counsel, is not in a position to dispute that so far as number of MST is concerned, the same was in the knowledge of the Railways as is evident from the report of DRM. No effort was made by the Railways to dislodge the claim of the claimants that the deceased was travelling on a valid MST. So far as the issue with respect to untoward incident is concerned, in order to appreciate the rival contentions raised by counsel for the claimants, it will be apt to peruse definition of ‘untoward incident’ as contemplated under Section 123 (c) and Section 124 A of the Railway Act, 1989 (for short, ‘the Act’), which reads as under :-

123 [(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.

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124A. 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 for 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.”



8 The precise issue of bonafide passenger and untoward incident have been answered by Supreme Court in the case of ***Union of India vs.***

Rina Devi, 2018 SCC Online SC 507 observing as under :-

“29. We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.

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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.”*



9 Applying the aforesaid ratio to the present case, keeping in view the fact that the deceased died within the precincts of the Railway station and the fact that there is no evidence to suggest that he had any intent to self-inflict the injuries or to take his life, this Court finds that issue No.2 is also covered in favour of the claimants and against the respondents.

10 In view of above the findings recorded by the Tribunal cannot be sustained and need to be set aside.

11 The claimants are held entitled for compensation on account of death of Naresh who died in an untoward incident involving railways as a bonafide passenger.

Date of accident :- 13.12.2016

12 Claimants are held entitled for compensation of Rs.4.00 lakhs as per unamended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990 along with interest @9% per annum from the date of incident till the date of actual realization or Rs.8.00 lakhs whichever is higher.

13 The claimants shall move an appropriate application giving details of their bank account before the Tribunal within a period of 4 weeks with an advance copy to the Railways. After receiving advance copy with respect to details of bank accounts, Railways shall within a further period of 12 weeks deposit the entire compensation payable to the claimants in the bank accounts. In the event of failure of Railways to deposit the compensation within the prescribed period of 12 weeks, the Railways shall be liable to pay interest @9% per annum from the date of passing of this order till the date of actual realization.



14 As a sequel of the discussion held hereinabove, it is held that the deceased was a bonafide passenger, who suffered injuries in an untoward incident. Consequently, the present appeal is allowed.

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

12.09.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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