



230 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-4274-2019

Date of decision : 21.03.2025

RAVINDER THAKUR AND OTHERS

....Appellants

Versus

UNION OF INDIA

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Upender Prasher, Advocate
 for the appellants.

 Mr. Navjit Singh, Central Govt. Counsel
 for the respondent/UOI.

PANKAJ JAIN, J. (ORAL)

Instant appeal is directed against award dated 24.04.2019 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby the claim petition filed by the appellants seeking compensation on account of death of Samundri Devi in a railway untoward incident dated 28.02.2016 while travelling to Jalandhar from Amritsar, stands rejected.

2. Claimants filed claim application claiming that deceased Samundri Devi boarded train bearing No.11058 (Dadar Express) on 28.02.2016 to travel from Amritsar to Jalandhar railway station on a valid ticket. When the train was about to reach Jalandhar railway station, she came near the door of the compartment preparing herself to de-board the train. Due to push and pull of the fellow passengers, she accidently fell



down from the moving train and sustained injuries. She was shifted to Civil Hospital, Jalandhar where she succumbed to her injuries.

3. Claim petition was contested by the Railway Department denying that the deceased died in an untoward incident involving railways. It was claimed that from DRM report and inquest proceedings, it has been revealed that she was trying to de-board the train while the same was in motion. Thus, she sustained injuries owing to her own negligence.

4. On the basis of the pleadings of the parties, following issues were framed :

- “1) Whether the deceased was a bonafide passenger of train at the time of incident?
- 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 were the sole dependents of the deceased?
- 4) Relief.”

5. Tribunal answered all the issues against the appellants and dismissed the claim petition.

6. While assailing the award passed by the Tribunal, counsel for the appellants submits that the Tribunal fell in error in misreading the evidence on record. Memo of personal search recorded by the GRP, Jalandhar, itself shows that a valid ticket was found on personal search of the deceased along with a mobile slip which carried mobile number of the



relative. He further submits that even as per DRM report, the deceased suffered injuries while preparing to de-board the train. Deceased, a senior citizen old lady, is not expected to have travelled without ticket. He further submits that the issue w.r.t. untoward incident stands covered by the ratio of law laid down by Supreme Court in the case of **‘Union of India vs. Rina Devi’, (2019) 3 SCC 572**. An unnecessary controversy has been created w.r.t. identification of the claimant/appellant No.1 Ravinder Thakur merely for the reason that his son writes himself as Santosh Sharma son of Ravinder Sharma even though there is overwhelming documentary evidence on record to show that the deceased was wife of Ravinder Thakur/appellant No.1. So much so even the Railway Authorities concluded so in their DRM report.

7. Per contra, counsel for respondent/Union of India has supported the impugned award passed by the Tribunal submitting that pure findings of fact have been recorded. He submits that Ravinder Thakur while in cross-examination was asked a specific question w.r.t. there being any documentary proof to show that he was related to deceased, he having replied in the negative, Tribunal rightly held that Ravinder Thakur and Ravinder Sharma are two different people.

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

9. In the considered opinion of this Court, once the Railway Authorities themselves found that the deceased Samundri Devi was wife of



Ravinder Thakur and there is a Aadhar Card produced on record, the Tribunal without there being any cogent reason tried to create a case which was not even pleaded by Union of India in the written statement.

10. So far as the issue of the deceased being *bona fide* passenger is concerned, memo of personal search of the deceased carried out by GRP Jalandhar, reads as under:

Memo of personal Search

In the presence of witnesses personal search of deceased Samundari Devi of death report abovewritten is got done from L/HC Parminder Kaur 716. That from blouse wearing by deceased, a railway ticket no.80677815, VTS ; 127XBHD 24 B Amritsar to Jalandhar City Mail \ Exp. Senior citizen adult 1 dated 28-2-2016, fare 30 rupees and a mobile slip bearing mobile no.9661080275 of Dalip Singh Thakur are found which are taken into police custody vide memo. Signatures of witnesses are taken on memo of personal search.

Note : Original Railway ticket no.80677815 Mail Exp. Fare 30 rupees and mobile no. slip (slip) are enclosed herewith.

11. Merely for the reason that the details of the ticket have not been mentioned in the inquest report, the memo of personal search of the deceased does not get falsified. The same is further corroborated by the fact that the deceased died while de-boarding the train. Thus, there is no dispute that she was indeed travelling at the time she met with an untoward incident.

12. Similarly, the issue w.r.t. untoward incident stands concluded by the Supreme Court in *Rina Devi's* case (supra), observing as under:



“16.1 From the judgments cited at the Bar we do not see any conflict on the applicability of the principle of strict liability. Sections 124 and Section 124A provide that compensation is payable whether or not there has been wrongful act, neglect or fault on the part of the railway administration in the case of an accident or in the case of an 'untoward incident'. Only exceptions are those provided under proviso to Section 124A. In Prabhakaran Vijaya Kumar (supra) it was held that Section 124A lays down strict liability or no fault liability in case of railway accidents. Where principle of strict liability applies, proof of negligence is not required. This principle has been reiterated in Jameela (supra).

16.2 Coming to the proviso to Section 124A to the effect that no compensation is payable if passenger dies or suffers injury due to the situations mentioned therein, there is no difficulty as regards suicide or attempted suicide in which case no compensation may be payable. Conflict of opinions in High Courts has arisen on understanding the expression 'self inflicted injury' in the proviso. In some decisions it has been held that injury or death because of negligence of the victim was at par with self inflicted injury. We may refer to the decisions of High Courts of Kerala in Joseph PT (supra), Bombay in Pushpa (supra) and Delhi in Shayam Narayan (supra) on this point.

16.3. In Joseph PT (supra), the victim received injuries in the course of entering a train which started moving. Question was whether his claim that he had suffered injuries in an 'untoward incident' as defined under Section 123(c) could be upheld or whether he was covered by proviso to Section 124A clause (b). The High Court held that while in the case of suicide or attempt to commit suicide, intentional act is essential. Since the concept of 'self inflicted injury' is distinct from an attempted suicide, such intention is not required and even without such intention if a person acts negligently, injuries suffered in such an accident will amount to 'self inflicted injury'. Relevant observations are :



"Therefore, the two limbs of the Proviso should be construed to have two different objectives to be achieved. We can understand the meaning of the term "self-inflicted injury" not only from the sources provided by the dictionaries, but also from the context in which it is used in the statute. The term "self-inflicted injury" used in the statute can be deduced as one which a person suffers on account of one's own action, which is something more than a rash or negligent act But it shall not be an intentional act of attempted suicide. While there may be cases where there is intention to inflict oneself with injury amounting to self-inflicted injury, which falls short of an attempt to commit suicide, there can also be cases where, irrespective of intention, a person may act with total recklessness, in that, he may throw all norms of caution to the wind and regardless to his age, circumstances, etc. act to his detriment. Facts of this case show that the appellant attempted to board a moving train from the off side unmindful of his age and fully aware of the positional disadvantageous and dangers of boarding a train from a level lower than the footboard of the train. It is common knowledge that the footboard and handrails at the doors of the compartment are designed to suit the convenience of the passengers for boarding from and alighting to the platform. And at the same time, when a person is trying to board the train from the non-platform side, he will be standing on the heap of rubbles kept beneath the track and that too in a lower level. Further more, he will have to stretch himself to catch the handrails and struggle to climb up through the footboard hanging beneath the bogie. The probability of danger is increased in arithmetic progression when the train is moving. Visualising all these things in mind, it can only be held that the act of the appellant was the height of carelessness, imprudence and foolhardiness. It



is indisputable that the purpose of Section 124A of the Act is to provide a speedy remedy to an injured passenger or to the dependants of a deceased passenger involved in an untoward incident. Section 124A of the Act provides for compensation to a passenger or his dependants who suffers injury or death, as the case may be, in an untoward incident even where the untoward incident is not the consequence of any wrongful act, neglect or default on the part of the Railway Administration. To this extent, it can be said to be a no-fault liability. Even though the provisions relating to payment of compensation in the Act can be said to be a piece of beneficial legislation, it cannot be stretched too much to reward a person who acts callously, unwisely or imprudently. There is no provision of law brought to our notice permitting the passengers to entrain from the non-platform side of the railway track. However, the counsel for the respondent did not show any provision of law prohibiting the same. The question whether an act by which a passenger sustains injury while boarding a train through the off side, is a self-inflicted injury or not depends on the facts of each case. Merely because a person suffered injury in the process of getting into the train through the off side, it may not be sufficient to term it as a self-inflicted injury, unless the facts and circumstances show that his act was totally imprudent, irrational, callous and unmindful of the consequences. All the facts and circumstances established in this case would show that the act of the appellant was with full knowledge of the imminent possibility of endangering his life or limb and therefore, it squarely comes within the term "self-inflicted injury" defined in Section 124A Proviso (b) of the Act."

16.4 In Pushpa (supra) a hawker died in the course of boarding a train. It was held that he was not entitled to compensation as it was a case of 'self inflicted injury'. The relevant observations are :



"Such an attempt by a hawker has been viewed by the trial Court as something amounting to criminal negligence on his part and also an effort to inflict injuries to himself. The trial Court reasoned that if the deceased had to sell his goods by boarding a train, he should have ensured to do so only when it was quite safe for him to get on to the train or otherwise he could have avoided catching the train and waited for another train to come. It also hinted that there was absolutely no compulsion or hurry for the deceased in the present case to make an attempt to somehow or the other board the train while it was gathering speed."

16.5 In Shyam Narayan (supra), same view was taken which is as follows :

"6(ii) I cannot agree with the arguments urged on behalf of the appellants/applicants in the facts of the present case because there is a difference between an untoward incident and an act of criminal negligence. Whereas negligence will not disentitle grant of compensation under the Railways Act, however, once the negligence becomes a criminal negligence and selfinflicted injury then compensation cannot be granted. This is specifically provided in the first proviso to Section 124A of the Railways Act which provides that compensation will not be payable in case the death takes place on account of suicide or attempted suicide, self inflicted injury, bona fide passenger's own criminal act or an act committed by the deceased in the state of intoxication or insanity."

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.”

13. There being no evidence on record to show that there was any intent on part of the deceased to suffer self-inflicted injuries, this Court finds that the issue is covered against respondents by the ratio of law laid down by the Supreme Court in *Rina Devi's* case (supra).

14. In view of above, this Court finds that the findings on issues No.1 to 3 cannot be sustained and needs to be reversed.

15. Ordered accordingly.

16. It is held that the deceased Samudari Devi wife of appellant No.1 died in an untoward incident while travelling as a *bona fide* passenger from Amritsar to Jalandhar in train bearing No.11058 (Dadar Express).

17. Resultantly, the instant appeal is allowed

Relief:

18. Accident is dated 28.02.2016. The claim has to be governed by unamended schedule appended to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. Resultantly, the claimants are entitled to compensation of **Rs.4.00 lacs along with interest @ 9% per**



annum from the date of accident till the date of actual realization or **Rs.8.00 lacs** without interest, **whichever is higher**.

19. Pending application, if any, shall also stands disposed off.

March 21, 2025

(Pankaj Jain)
Judge

Dpr

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