



1473

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

**FAO No.2203 of 2009 (O&M)
Date of Decision : 05.04.2025**

Union of India

.....Appellant

Versus

Dasmesh

.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. S.K. Sharma, Senior Panel Counsel
for the appellant/UOI.

PANKAJ JAIN, J.(Oral)

Union of India is in appeal aggrieved of the order dated 26.11.2008 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh, awarding claimant compensation of Rs.2,20,000/- for having suffered disability i.e. amputation of left leg below knee in an untoward incident while travelling with the railways.

2. Tribunal after appreciating the evidence came to the conclusion that the claimant was a *bona fide* passenger travelling on a valid ticket. Claimant while travelling was standing near the gate and inside the compartment of the train when he fell down from the moving train owing to a sudden jerk near Badhkal Bridge. His left leg below knee was cut down by the speeding train. His co-passenger transported him to B.K. Hospital,

3. Counsel for the appellant does not dispute that both the issues of the claimant being a ‘*bona fide* passenger’ and the accident being an ‘untoward incident’ are covered by ratio of law laid down by Supreme Court in the case of **Union of India vs. Rina Devi, (2019) 3 SCC 572** wherein Supreme Court observed 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.

“17.4 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.”

- 4. In view of above, this Court finds no merit in the present appeal. The same is ordered to be dismissed.
- 5. Pending application(s), if any, shall also stand disposed off.

April 05, 2025		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether Reportable	: Yes/No