



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

FAO No.265 of 2020 (O&M)

Date of decision : 21.03.2025

Jaswant Singh

....Appellant

Versus

Union of India

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Deepankar Sabharwal, Advocate for the appellant.

Mr. Harneet S. Oberoi, Advocate for the respondent.

PANKAJ JAIN, J. (ORAL)

1). This is an appeal directed against order dated 16.02.2016 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby claim application filed under section 16 of the Railway Claims Tribunal Act, 1989 seeking compensation of Rs.10,00,000 on account of injuries suffered by him in an untoward incident was dismissed.

2). Pleaded facts of the case are that on 03.06.2015, the injured and his brother were travelling from Rohtak to Bahadurgarh. They reached Rohtak railway station and purchased railway ticket no.47985902. The injured while boarding the train slipped from the foot step and got injured. The fall led to amputation of both his legs.

3). The claim was resisted by the respondent railways by filing a written statement. The alleged journey of the injured and the alleged incident have been denied. It was held that the alleged railway ticket was issued at



09.16 hours whereas there was no scheduled ordinary passenger train from Rohtak to Bahadurgarh at that time.

4). After hearing the rival contentions, the Tribunal framed the following issues

- “1. *Whether the injured/applicant 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 Railways Act?*
3. *What are the scheduled and non-scheduled injuries sustained by the applicant/injured?*
4. *Relief.”*

5). The Railway Claims Tribunal while dismissing the claim of the injured held that he failed to prove that he was a *bonafide* passenger of the train and was not involved in the untoward incident as defined under Section 123(c)(2). It was held that the nature of the injuries suggest that the injured might have become a victim while crossing the railway lines. No station memo was issued by the Station Master and the railway authorities have no information of any such incident on the alleged date. The injured has also not mentioned the name of the train, train number and timing of the alleged incident.

6). Counsel appearing for the injured-appellant submits that the applicant has placed on record an affidavit of him and his brother along with the original train ticket in support of the claim application. Further reliance



has been placed upon the medical record/disability certificate according to which injured sustained traumatic amputation B/L lower limbs upto upper thigh and the disability has been shown as 100% permanent which are the scheduled injuries as per schedule attached to the said rules.

7). Counsel for the respondent railways submits that the nature of the injuries suggest that the injured applicant may have become victim of the alleged incident while crossing the railway line. The railway authorities also had no information about any untoward incident on the said date.

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

9). The first issue before the Tribunal was whether the injured was a *bonafide* passenger or not. Original ticket was placed on record along with the claim application and the Tribunal has not brought on record anything substantial to rebut the same. Once the applicant discharged the initial burden, it is for the railways to prove otherwise, in light of 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:

“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.”

10). There is overwhelming evidence on record in the form of photographs, a follow up report of PGIMS, Rohtak to prove that the injured had suffered amputation on account of an untoward incident involving the railways. There is no evidence on record to prove any intentional act on the part of the injured to have suffered these injuries. The incident does not fall within the five exceptions enumerated under the proviso appended to Section 124A of the 1989 Act. Thus, the respondent railways cannot be absolved of its liability to compensate the injured.

11). As a sequel of the discussion hereinabove, it is held that the injured was a *bonafide* passenger, who suffered injuries on account of an untoward incident. The appeal is allowed.

12). The amputation of both lower limbs upto upper thigh and suffered disability of 100% as enumerated in Part 3 of the schedule. Thus, the compensation payable shall be as per Part 3 of the schedule appended to the Railway Accident and Untoward Incident (Compensation) Rules, 1990 prior to the amendment dated 1st of January, 2017 i.e. Rs.8,00,000.

March 21, 2025

Dpr

**(Pankaj Jain)
Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No