



232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5152 of 2019
Date of decision : 21.03.2025

Rani and another

....Appellants

Versus

Union of India

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Subhash Chand Sachdeva, Advocate
for the appellants.

Mr. Ramesh Chand, Advocate
for respondent/Union of India.

PANKAJ JAIN, J. (ORAL)

1). This is an appeal directed against order dated 10.5.2019 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby an application seeking compensation of Rs 20,00,000 on account of death of Rajol was dismissed.

2). The facts of the case are that on 18.03.2017, the deceased while travelling in Mail Express Train Ex. Kurukshetra to Karnal, accidentally fell down at KM NO.154/06-04, (between Kurukshetra-Amin) and sustained grievous injuries on the vital organs and died on the spot.

3). Respondent-railways raised objections stating that the incident does not fall within the ambit of Section 124-A read with Section 123(c)(2) of the Railway Act 1989. It was further averred that the claim application



was not maintainable as there was not enough proof on record to prove that the deceased was a *bonafide* passenger or a victim of untoward incident.

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

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

5). Gora, AW-2 appeared in the witness box and was cross examined. He deposed that on the day of the incident, the deceased purchased two tickets, one journey ticket for himself and platform ticket which he handed over to him.

6). The respondent-railway contested the claim that no ticket was placed on record by the claimants nor there is any evidence on record which could reveal the presence of Gora at the railway station Kurukshetra.

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

8). The first issue raised by the Tribunal was that the deceased was not a victim of the untoward incident as there were multiple crush injuries on his person as per the medical report on record which go onto show that cause of his death was due to his own criminal negligence. The same issue is no



more *res-integra* 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 Apex 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.”

9) Body of the deceased has been found on track. There is affidavit/testimony of AW2 who proved that deceased boarded train. Thus, the Tribunal ought not have non-suited the claim without there being any evidence to prove that the injuries suffered by the deceased were self-inflicted.

10). The Tribunal further dismissed the claim on the ground that the deceased was not a *bonafide* passenger as no ticket was recovered from his dead body. The non-production of railway ticket cannot necessarily lead to the conclusion that the deceased was intending to travel in the train without



a valid ticket. The same issue no longer *res-integra* as the same has been considered and decided by the Hon'ble Supreme Court in **Rina Devi's** case (supra) observing 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.”

11). In view of above, this Court holds that the deceased was a *bonafide* passenger and the incident is an untoward incident as enumerated under the definition of Section 123(c)(2) of the Act. Thus, he would be entitled for compensation under Section 124A of the Act.

12). The accident relates to the period post the Amendment of 2017 which came into effect w.e.f. 01.01.2017. Thus, the compensation payable shall be as per amended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990. Compensation of Rs 8,00,000 along with interest @9% per annum is payable for the period from the date of application till the date of actual realization.



13). Appeal stands allowed.

March 21, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No