

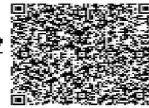
application is not maintainable. It was further averred that she was run over by a train while crossing the track in an illegal manner. It is not possible that a person is run over by the same train after detraining from it at the platform.

4 After hearing the rival contentions, the Tribunal framed the following issues:

- “1. Whether the deceased was a bonafide passenger at the time of incident?*
- 2. Whether the incident is covered within ambit of Section 123(C) (2) read with section 124-A of the Railways Act?*
- 3. Whether the applicant(s) is/are the sole dependents of deceased in this case?*
- 4. Relief.”*

5 The issue nos. 1 and 2 were decided against the claimants and in favour of the respondent-railways holding that the deceased was not the bonafide passenger and that the accident is not covered within the ambit of Section 123(c)(2) read with Section 124A of the 1989 Act. Claimants have been non-suited relying upon the GRP report that no ticket was recovered from the dead body. It was held that the body of the deceased was found amid the railway track and that the deceased had already completed her journey where she came in contact with a running train while crossing the track.

6 Learned counsel for the appellants submits that there was no reason for the Tribunal to discard the claimants’ case and hold that the alleged accident occurred while the deceased was trying to cross the railway track and was negligent. According to the GRP report, the death of the



deceased was after having struck by a moving train. Affidavit was also filed by the applicant appearing as AW-1.

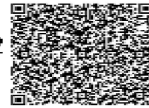
7 Learned Counsel appearing for the respondent-railways submits that the Tribunal rightly rejected the claim of the appellants. There was neither any evidence of purchase of ticket nor to prove that she was trying to alight or board the train. The injuries are also not suggestive of an accidental fall. The incident cannot be said to an untoward incident.

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

9 Trite it is that non-production of railway ticket cannot necessarily lead to the conclusion that the deceased was not a bonafide passenger. The issue has been considered and decided by the Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** 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.”

10 The claimants thus discharged initial burden by filing affidavit. Railways failed to rebut the same. In view of ratio of law laid down in ***Rina Devi’s case supra***, issue of the deceased being a bonafide passenger is accordingly answered in favour of the claimants.



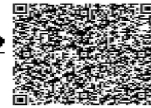
11 Untoward incident has been defined under Section 123 (c) of the 1989 Act. Exceptions thereto have been carved under Section 124A of the 1989 Act which provides as under :-

- (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.*

12 Explaining the import of the aforesaid provisions Supreme Court in ***Rina Devi's case supra*** observed as under :-

“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.”

13 Applying the aforesaid ratio to the present case, this Court finds that the findings recorded by the Tribunal cannot be sustained. DRM in its investigation concluded that the incident occurred within the precincts of the Railway Station. Mere fact that at the time of incident the deceased had already concluded her journey will not disentitle victim from claiming



compensation as the same does not fall in any of the exceptions as carved out in the proviso appended to Section 124A of the 1989 Act. Accordingly the award passed by the Tribunal is hereby set aside. It is held that the deceased died as a bonafide passenger in an untoward incident.

14 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.

15 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.

16 Consequently, the present appeal is allowed.

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

04.07.2025

Pooja Sharma-I

Whether speaking/reasoned:
Whether reportable:

(PANKAJ JAIN)
JUDGE

Yes/No
Yes/No