

FAO-568-2014 (O&M)

2025-PHHC-075627



209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-568-2014 (O&M)

Date of decision :02.05.2025

Smt. Tulsi & ors.

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Rakesh Kumar Sharma, Advocate
for the appellants.

Ms. Garima Kuthiala Prasher, Advocate for
Mr. Chander Mohan Sharma, Advocate
for the respondent.
(Through V.C.)

PANKAJ JAIN, J. (ORAL)

1 Claimants are in appeal. Challenge is to the award dated 14.05.2013 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh dismissing the claim petition filed by the claimants seeking compensation on account of death of Shankar Lal in an untoward incident dated 12.08.2011.

2 As per the claimants deceased along with his friends purchased ticket from Balaghat Railway station for Gundia Railway station. On reaching Gundia Railway Station they de-boarded the train and started their journey for Delhi as they wished to travel to Vaishno Devi. On account of rush in the general compartment the deceased was standing on the gate of



the compartment. Suddenly the train stopped at Faridabad with the heavy jerk. Deceased fell down on platform. Lot of hue and cry was raised by the co-passengers. However, deceased died on the spot.

3 Claim petition was contested by the respondent-railways. It was denied that the deceased was travelling as a bonafide passenger, as no journey ticket was found in his jamatalashi. It was further claimed that injury, if any suffered by the deceased is a self inflicted injury for which railways cannot be held to be liable.

4 On the basis of the pleadings 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 dependent (s) of the deceased in this case ?*
- 4. Relief.”*

5 Answering issue No.1 & 2 Tribunal found that the claimants failed to prove that the deceased was travelling as a bonafide passenger. The Tribunal further found that as per the statement of RW1 Om Parkash Sharma, the informant of the incident, informed the Station Master, Railway Station Faridabad that the deceased died after coming in contact with goods train on platform No.1 as he was sitting on the edge of the platform No.1 for urination.



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

7 The precise issue of bonafide passenger and untoward incident have been answered by Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** observing as under :-

“29. 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.

Xxxxx xxxx xxxxx

25. 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.”



8 Smt.Tulsi, claimant appeared as AW-1 before the Tribunal. She testified that deceased Shankar Lal was travelling in the train after purchasing valid ticket. Suggestion was given to her that deceased was travelling without ticket which was denied by her. No cogent evidence was led by railways to rebut the evidence adduced by the claimants. In the request letter given under the signatures of Assistant Sub Inspector, Police Station GRP, Faridabad dated 14.08.2011 to Medical Officer, Casualty BK Hospital Faridabad for conducting postmortem of the body of the deceased Shankar Lal it has been mentioned that he died after falling from train. The communication is on record as Ex.A-3. It is not denied that the deceased died within the premises of railway station.

9 In view thereof, this Court finds that the Tribunal erred in holding that the deceased was not a bonafide passenger. The findings recorded are in teeth of ratio of law laid down by Supreme Court in the case of ***Rina Devi's case (supra)***. Resultantly, finding on issue No.1 is ordered to be reversed.

10 In the absence of there being any evidence to prove that the deceased intended to suffer self-inflicted injury, the issue of untoward incident is also answered in favour of the claimants and against the railways.

Date of accident :- 12.08.2011

11 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.



12 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.

13 As a sequel of the discussion held hereinabove, it is held that the deceased was a bonafide passenger, who suffered injuries in an untoward incident. Consequently, the present appeal is allowed.

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

02.05.2025

Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No