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

FAO-7755-2015

Date of decision : 07.02.2025

RAVINDER SINGH

....Appellant

Versus

UNION OF INDIA

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sushil Sheoran, Advocate
for the appellant.

Ms. Amrita Singh, Advocate
for respondent/UOI.

PANKAJ JAIN, J. (ORAL)

Insured/claimant is in appeal aggrieved of the award dated 12.08.2015 passed by Railway Claims Tribunal, Chandigarh Bench.

2. Claim petition was filed by the appellant claiming that on 06.11.2012 he purchased ticket to travel from Nawan Railway Station to Mahendergarh. While boarding passenger train, he fell down due to heavy rush and sustained injuries. His left leg was amputated near hip and paw of right leg was also cut down by the train. He thus claims that he suffered injuries which led to 100% disability in an untoward incident while travelling on train having a railway ticket and is thus entitled for compensation.



3. Claim was resisted by the respondent/UOI claiming that the injured never purchased any railway ticket and was thus not a *bona fide* passenger. It was further claimed that the injury suffered by the claimant was on account of his own negligence and thus, the claim petition be dismissed.

4. On the basis of the pleadings of the parties, 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) read with Section 124-A of the Railway Act?
3. What are the scheduled and non-scheduled injuries sustained by the applicant/injured?
4. Relief?

5. While returning finding on issue No.1, Tribunal held that the statement made by claimant was not trustworthy. The ticket though was produced but after much delay. Delay in producing the ticket was in order to arrange a fake ticket. Thus, the claimant was not a *bona fide* passenger being a traveller without a ticket.

6. On issue No.2 Tribunal relied upon statement of guard of the train who deposed as under :

“I was on duty as guard in the passenger train no.54810 from Chuk railway station to Rewari on 6.11.2012. I in a passenger train no.54810 went from Chuk railway station at the right time. Passenger train no.54810 reached at 12:50 at Nawan Halt and proceeded at 12:51. When passenger train proceeded from Nawan



railway station and 3-4 train coach left the station than a person came on bike with his friend and suddenly came towards train and said person slipped from train while boarding in the train:

7. Answering issue No.1 and 2 against the claimant, the claim petition was dismissed.

8. Counsel appearing for the appellant submits that the award passed by the Tribunal is in the teeth of law laid down by the Supreme Court in the case of **Union of India vs. Rina Devi, (2019) 3 SCC 572**. The observation made w.r.t. arrangement of fake ticket is conjectural and cannot be sustained. He further submits that the Tribunal erred in misreading the statement of guard of the train. Rather the statement itself proves that the claimant sustained injury in an untoward incident. In the absence of there being any intent on part of the claimant to take his own life, the accident would fall within the ambit of 'untoward incident' as contemplated under Section 123-A of the Railways Act.

9. Per contra, counsel appearing for the respondent/UOI submits that delay on part of the claimant to produce the ticket is fatal to his case. Had he been in possession of the ticket, he would have produced the same at the first instance. Thus, no fault can be found with the finding recorded by the Tribunal w.r.t. the claimant being not a *bona fide* passenger. She further submits that from the reading of the statement made by RW-1 Hem Raj the Duty Guard, it is evident that the claimant tried to board while train was on



the move. Thus the injuries sustained by the claimant are owing to his own negligence. She thus submits that the appeal deserves to be dismissed.

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

11. The issue w.r.t. *bona fide* passenger and untoward incident already stands authoritatively laid down by Supreme Court in *Rina Devi's* case (supra). Section 124A deals with liability of Railways to pay compensation to the victims on account of injuries/loss of life suffered owing to untoward incidents and accidents involving Railways. The aforesaid provision came on the statute book by way of Railways Amendment Act, 28 of 1994. The same has come up for consideration before Supreme Court in the case of **Rathi Menon vs. Union of India (2001) 3 SCC 714, Union of India vs. Prabhakaran Vijaya Kumar and others, (2008) 9 SCC 527, Jameela and others vs. Union of India, 2010 AIR SC 3705, Union of India vs. Rina Devi, (2019) 3 SCC 572 and Doli Rani Saha vs. Union of India, Civil Appeal No.8605 of 2024 (Arising out of SLP (C) No.32962 of 2018).**

12. After considering the aforesaid precedents, this Court dealt the issue elaborately in the case of **Sandeep Narula and ors versus Union of India** bearing FAO No. 2700 of 2016 and culled out the following parameters:

“15. In view of above, the following proposition can be culled :



(i) Railway is liable to pay to an injured passenger or to the dependents of a passenger killed in an untoward incident involving railways. The passenger for the purpose of Chapter XIII of the Railways Act does not necessarily mean a passenger as contemplated under Section 2(29) of the 1989 Act. Rather explanation appended to Section 124A provides that the passenger shall include:

- a) a railway servant on duty;*
- b) a person who has purchased a valid ticket for traveling by a train carrying passengers on any date; or*
- c) a valid platform ticket and becomes a victim of an untoward incident.*

The definition is inclusive. It does not exclude any category. Definition of 'passenger' as appended to Section 124A by explanation is much wider than the definition of 'passenger' as provided under Section 2(29) of the 1989 Act.

(ii) As per the dictum of law laid down in Rina Devi's case (supra), once an affidavit is filed by the claimant that the victim was traveling on a valid ticket, the initial burden to prove that the victim was a bona fide passenger stands discharged. Thereafter, it is for the Railways to rebut the same to prove otherwise.

*(iii) Untoward incident is different from accident. 'Untoward incident' is defined under Section 123(c) of the 1989 Act. Under five situations as contemplated under proviso appended to Section 124A, the Railway Administration may be absolved of its liability. Any other situation that does not fall within the ambit of proviso appended to Section 124-A, invites liability of Railway Administration to pay compensation. The compensation needs to be paid as per the mandate of statute as interpreted by Supreme Court in **Rina Devi's case (supra)**.*

(iv) The liability of the Railway Administration is based on the 'principle of strict liability'. Plea of 'no fault of railways' or



'negligence of the victim' is not available to the Railway Administration.

13. It is not disputed that the claimant on oath testified before the Tribunal that he purchased ticket and was boarding train. The said evidence has gone un-rebutted.

14. In view thereof, findings recorded by the Tribunal on issue No.1 after claimant discharged initial onus, cannot be sustained.

15. Issue w.r.t. untoward incident is also no more *res integra*. From the perusal of statement of RW-1 Hemraj, it is evident that the injury was suffered by the claimant while boarding train. There is no intention on his part. Negligence while boarding train in the absence of there being any intention to suffer injury, has been held to be covered under the ambit of untoward incident.

16. In view of above, this Court finds that the findings recorded by the Tribunal cannot be sustained and are hereby reversed on issue No.1 and 2. Consequently, the findings on issues No.3 and 4 need to be modified.

17. Exhibit A-3 describes injuries suffered by the claimant as under:

- Amputated limb (Left side)
- Lacerated wound on (Rt) foot
Bone, Tendon, Vein visible
colour changes on distal Part of Rt foot

18. The claimant has suffered amputation of right leg below knee and left leg below hip. The compensation has to be paid in terms of Rule 3



of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as per schedule appended to Rules of 1990.

19. The case of the claimant would fall within the ambit of Item No.3 as contained in Part II of the Schedule appended to Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. He is thus held entitled for an amount of Rs.8,00,000/- along with interest @ 7% per annum from the date of claim petition till the date of actual realization.

20. In view of above, the appeal is allowed.

February 07, 2025					(Pankaj Jain)
Dpr					Judge
	Whether speaking/reasoned	:		Yes/No	
	Whether reportable	:		Yes/No	