

2025:PHHC:070447



FAO-1233-2017 (O&M)

[217] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1233-2017 (O&M)
Date of Decision : 23.05.2025

Shanti Devi (since deceased)
through LR Bhim Chand ...Appellant

versus

Union of India and othersRespondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Upender Prashar, Advocate
for the appellant.

Ms. Monica Chawla, Advocate
for respondent No.1-UOI.

PANKAJ JAIN, J. (ORAL)

[1] The issue in the present appeal relates to locus of the deceased- Shanti Devi to maintain claim petition under Section 124 of the Railways Act seeking compensation on account of death of Tarsem Lal in an untoward incident dated 24.01.2013.

[2] The admitted facts on the records are that Tarsem Lal was son of Amarnath. His parents had already died. Shanti Devi claims that her deceased husband Diyal Chand was elder brother to Amarnath. Tarsem Lal after death of his parents was residing with her and she being dependent upon Tarsem Lal is entitled to maintain claim. Shanti Devi also died during the pendency of the application. Her son Bhim Chand son of Diyal Chand filed an application seeking his impleadment as LR of Shanti Devi along with his sisters. The Tribunal has non-suited the legal representatives.

[3] In the considered opinion of this Court, even the locus of Shanti



Devi to maintain the claim petition cannot be accepted. Section 125 of the Railways Act, 1989 reads as under:-

“ 125. Application for compensation. —

(1) An application for compensation under section 124 or section 124A may be made to the Claims Tribunal—

- (a) by the person who has sustained the injury or suffered any loss, or*
- (b) by any agent duly authorised by such person in this behalf, or*
- (c) where such person is a minor, by his guardian, or*
- (d) where death has resulted from the accident or the untoward incident, by any dependant of the deceased or where such a dependant is a minor, by his guardian.*

(2) Every application by a dependant for compensation under this section shall be for the benefit of every other dependant.”

[4] ‘Dependant’ has been defined under Section 123(b) of the Railways Act. The same reads as under:-

“ 123(b) “dependant” means any of the following relatives of a deceased passenger, namely:—

- (i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;*
- (ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;*
- (iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;*
- (iv) the paternal grand parent wholly dependant on the*



deceased passenger.”

[5] Shanti Devi thus, having her own son and daughters cannot be held to be dependant upon Tarsem Lal. Rather Tarsem Lal, who lost his parents and was thus, residing with Shanti Devi was dependant upon her.

[6] Counsel for the appellant has relied upon the judgment of this Court in ‘**Union of India versus Phoolsaye and another**’, **FAO-1265-2010, decided on 20.05.2010**. The ratio of law laid down in ‘**Phoolsaye and another**’s case (*supra*), cannot be held to be applicable to the present case, as the issue in that case was regarding substitution of the legal representatives i.e. governed by Rule 26 of the Railway Claims Tribunal (Procedure) Rules, 1989. Here in the present case, the issue relates to the locus of the original claim. Finding that Shanti Devi has no right to maintain the present appeal being not dependant upon the deceased-Tarsem Lal. This Court does not find any reason to interfere in the present appeal, the same is ordered to be **dismissed**.

[7] All pending miscellaneous application(s), if any, stands *disposed off*.

(PANKAJ JAIN)
JUDGE

23.05.2025
‘R. Sharma’

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>