



FAO-3005-2018(O&M)

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3005-2018 (O&M)
Date of decision :25.04.2025

Rekha Devi & ors.

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Atul Yadav, Advocate for the appellants.

Ms. Amrita Singh, Advocate for the respondent

PANKAJ JAIN, J. (ORAL)

1 Claimants are in appeal. Challenge is to the award dated 25.08.2017 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby claim petition filed by the claimants seeking compensation on account of death of Naveen Kumar on 03.06.2013 in an untoward incident stands dismissed.

2 As per claimants the deceased purchased ticket from Palam railway station for Jatola Jori Sampka in a passenger train. After the train started the deceased fell down due to heavy rush and jerk and got crushed under the train and died on the spot.

3 Claim was contested by the respondent denying that the deceased was travelling as a bonafide passenger. It was further claimed that the ticket relied upon by the claimants is a false ticket as the same surfaced



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only after three months of the incident. On the issue of bonafide passenger, Tribunal found that the ticket produced by the claimants cannot be believed. No effort was made by the claimants to hand over the ticket to the authorities after the same was discovered by them as per their version on 04.06.2013. Tribunal further found that once cash amounting to Rs.140/- and slip bearing mobile phone numbers was recovered by the police authorities, there was no such reason as to why the journey ticket could not have been recovered during the personal search of the deceased had it been in his possession. Tribunal further found that keeping in view that the body of the deceased was cut into two pieces and was found smeared with grease it does not appear to be a case of fall from the train but rather a case of run over while crossing the railway track.

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

5 AW-1 father of the deceased appeared in the witness box. He testified that the deceased was travelling on a general ticket. The same was found in the inner pocket of the pant of the deceased at the time of last rites. The claimant-father along with respectable persons went to the police station to hand over the ticket to the I.O. He refused to accept the same stating that the police proceedings have already concluded. The aforesaid findings brought on record by the claimants has remained unrebutted. Tribunal has brushed aside the testimony of the claimant-father merely on the presumption that had ticket been there it would have been found at the time of personal search. No effort was made to examine the police officials who conducted the personal search of the deceased.



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6 In view thereof, this Court finds that the Tribunal erred in disbelieving the ticket produced on record by the claimants.

7 *Qua* issue of untoward incident as contemplated under Section 123 (c) (2) of the Railways Act, 1989 Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** observed as under :-

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 In the absence of there being any cogent evidence to prove that there was an intent on part of the deceased to self inflict injury, this Court does not find any reason to sustain the findings recorded by the Tribunal. The same are hereby set aside.

9 Findings on issues No.1, 2 & 4 are hereby ordered to be reversed.

Date of accident :-03.06.2013

10 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.

11 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.

12 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.

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

25.04.2025

Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No