



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

225

FAO-3109-2018**Date of decision : 07.02.2025****Isham Singh @ Hisam Singh****..... Appellant**

versus

Union of India**..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. S.R. Chaudhary, Advocate
for the appellant.

Ms. Gehna Vaishnavi, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. The first appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 impugning the judgment of the Tribunal dated 19.12.2017 by which the Tribunal dismissed the claim filed by the appellant/applicant, who is the husband of the deceased.

2. The facts of the case are that on 08.04.2015, the deceased along with other village neighbours was coming back from Beas to their village. They purchased different tickets bearing Sr.No. 11428937 to 11428940 from Beas to Kurukshetra and boarded the train from Beas to Kurukshetra and deboarded the train at Ambala Cantt, railway station. When the said train reached Shahbad railway station, the co-passengers got down. While the deceased was in the process of deboarding, the train started moving. The deceased got imbalanced and fell off the train. He came in between the train and the platform. Her



both legs and left arm were crushed badly. She was referred to PGI Chandigarh where she succumbed to her injuries.

3. The respondent-department filed a written statement contesting the claim holding that no untoward incident within the meaning of Section 123(c) of the Railways Act, causing the death of the deceased took place. It was further averred that the deceased was not a bonafide passenger of the train as the ticket shown in the claim application is a procured, planted and managed one. It was further averred that the ticket was purchased upto Kurukshetra when the deceased had to get down at Shahbad.

4. On the basis of the pleadings of parties, Tribunal framed the following issues:

- “1. Whether the deceased was a bonafide passenger of train at the time of accident?*
- 2. Whether the incident in question is covered within the ambit of Section 123(c)(2) read with Section 124-A of the Railways Act?*
- 3. Whether the applicants are the only dependents of the deceased?*
- 4. Relief.”*

5. The appellants adduced evidence by way of affidavit of AW-1, husband of the deceased. AW-2, Rani Devi, the co-passenger of the deceased was produced in the witness box and was cross examined. The appellant also placed on record fard jamtalashi as Ex. AW- 1/8 and document peshkardagi railway ticket, Ex. AW-1/7. Reliance has also been placed upon MLR placed on record as Ex. AW-1/A.

6. The Counsel appearing for the respondent-Union of India contends that a person residing at Shahabad Markanda would not



purchase the ticket for Kurukshetra. It was further contended that the deceased became a victim of the incident due to her negligence and the railway administration is not liable for the same.

7. 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 came up for consideration before Supreme *Court* in the case of ***Rathi Menon v. Union of India (2001) 3 SCC 714, Union of India v. Prabhakaran Vijaya Kumar and others, (2008) 9 SCC 527, Jameela and others v. Union of India, 2010 AIR SC 3705, Union of India v. Rina Devi, (2019) 3 SCC 572 and Doli Rani Saha v. Union of India, Civil Appeal No.8605 of 2024 (Arising out of SLP (C) No.32962 of 2018).***

8. After considering the aforesaid precedents, this *court* dealt with the issue elaborately in the case of ***Sandeep Narula and ors v. Union of India bearing FAO No. 2700 of 2016***, wherein the *court* observed as under:-

"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 travelling 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 the 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."

9. The appellant has produced evidence on record that the deceased was a bonafide passenger and the same has gone unrebutted by the railways.

10. There is no evidence on record to prove any intentional act on part of the deceased which led to loss of her life. The incident does not fall within the five exceptions as contemplated under the proviso appended to Section 124A of the 1989 Act. Thus, the respondent/ Railways cannot be absolved of its liability and is required to pay



compensation.

11. In view of above, the findings recorded by the Tribunal cannot be sustained and are hereby reversed.

12. The appeal is hereby allowed. The accident relates to the year 2015. Thus, the compensation awarded to the appellants shall be as per Part I of the Schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 prior to amendment dated 1st of January, 2017 i.e. Rs. 4.00 lacs along with interest @ 9% per annum payable for the period from the date of application till the date of actual realization.

(PANKAJ JAIN)
JUDGE

07.02.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No