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

FAO-3515-2018

Date of decision : 11.08.2025

SURENDER SINGH AND ANR

....Appellants

Versus

UNION OF INDIA

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Atul Bhatia, Advocate
for the appellants.

Mr. Bhuwan Vats, Advocate
for the respondent-UOI (through V.C.)

PANKAJ JAIN, J. (ORAL)

Challenge is to the award dated 04.01.2018 passed by RCT, Chandigarh Bench, Chandigarh whereby the claim petition filed by the claimants seeking compensation on account of death of Sumit Singh @ Badhka in an untoward accident, dated 04.10.2014 while travelling in train, has been dismissed.

2. The issue regarding the deceased being a *bona fide* passenger has been answered in favour of the claimants. However, it has been held that the deceased died on account of his own negligence as he was leaning outside the bogey when his head struck against the signal pole. The Tribunal observed as under:



“A bare perusal of Section 123(c)(2) *ibid* shows that accidental falling of a passenger from a train carrying passenger has been defined as an untoward incident and compensation is payable under Section 124-A of the Act *ibid*. However, there are exceptions carved out to the said Section, which absolves the respondent-railway of their liability to pay compensation if the incident occurs due to any one of the exceptions.

In the case in hand, the deceased was leaning outside the bogey and his head got struck with some signal pole, which resulted in his death. The said act of the deceased does not fall within the definition of an untoward incident and rather, it can safely be termed as criminal negligence on the part of the deceased himself, and the same falls within the exceptions (c) carved out to Section 124-A *ibid*.

In view of the above discussion, it is held that the incident in question does not fall within the definition of an untoward incident, as defined under Section 123(c)(2) read with Section 124-A of the Railways Act. The issue is answered accordingly against the applicants.”

3. While dealing with the issue of ‘untoward incident’ Supreme Court in the case of ‘**Union of India vs. Rina Devi**’, (2019) 3 SCC 572 observed as under:

“16.6 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.”

4. Apparently, the findings recorded by the Tribunal are in teeth of the ratio laid down by Supreme Court in *Rina Devi's* case (supra).

5. Counsel for the respondent is not in position to dispute the said fact.

6. In view thereof, the present appeal is accepted. Award passed by the Tribunal is hereby set aside. It is held that deceased Sumit Singh @ Badhka died as a *bona fide* passenger in an untoward incident while travelling by train on 04.10.2014.

Relief:

7. Keeping in view that the date of accident is prior to 01.01.2017 i.e. 04.10.2014. the claim has to be governed by the unamended Schedule appended to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. Resultantly, the claimants shall be entitled to compensation of **Rs.4.00 lacs along with interest @ 7% per annum** from the date of accident till the date of this judgment or **Rs.8.00 lacs without interest**, whichever is higher.

8. 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.

9. Needless to say, the compensation amount shall be equally apportioned between the two appellants/parents of the deceased.

10. Ordered accordingly.

August 11, 2025

Dpr

**(Pankaj Jain)
Judge**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No