



**208-16 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.234 of 2020 (O&M)
Date of decision : 07.03.2025**

Labh Kaur and others

Versus

....Appellants

Union of India

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ujval Mittal, Advocate for the appellants.

Mr. Sudhir Nair, Advocate for the respondent/UOI.

PANKAJ JAIN, J. (ORAL)

CM-234-CII of 2020

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 27 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicants/appellants have made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 27 days in filing the instant appeal is hereby condoned.

FAO No.234 of 2020

1. This is an appeal directed against the order passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby claim petition filed under Section 16 of the Railway Claims Tribunal Act, 1987



seeking compensation of Rs 8,00,000 on account of death of one Sher Singh involving railways, has been dismissed.

2. As per the facts, on the fateful day of 20.04.2017, the deceased was going by train to Bazidsa Jatan for taking medicine. When the train was about to reach near the fields of the deceased, he stood on the gate of the coach to see his fields and in the meantime, he lost his balance and accidentally fell down from the train. He got seriously injured and died on the spot. The keyman informed the Station Master.

3. The claim was resisted by the railways by filing a written statement. It was pleaded that the claim petition is based upon fraud. If the deceased suffered any injuries and died, it was due to his own criminal act and he was not a victim of any untoward incident. It was further averred that the railway ticket seems to be planted on.

4. After hearing rival contentions, the Tribunal framed the following issues:

“1. Whether the deceased was a bonafide passenger of train at the time of incident?

2. Whether the alleged incident is covered within the ambit of Sec. 123(c)(2) read with Section 124-A of the Railways Act?

3. Whether the applicants are the sole dependents of the deceased?

4. Relief.”

5. Jaswinder Singh, son of the deceased, AW-1, appeared in the witness box and was cross examined. He deposed that on the fateful day his



father purchased the ticket and boarded the train. He dropped his father at the railway station and came back to his village.

6. The respondent-railway contested the claim pleading that the ticket placed on record by the claimants is a planted one. Further it was claimed that there were material contradictions in the statements given by the AW-1 which goes on to show that it is a fraudulent claim. The place of incident is opposite to the residence of the deceased, it is a case where the deceased got-run over by the train while crossing the railway track. The nature of the injuries found on the person of the deceased are not possible due to simply falling down from the moving train and it can only occur when a person is hit and run over by a train.

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

8. The first issue raised by the Tribunal was that the deceased was not a victim of the untoward incident as there were multiple crush injuries on his person as per the medical report which go on to show criminal negligence on his part. As per the post-mortem report, the cause of the death is hemorrhagic shock due to injuries to multiple vital organs. The possibility of injury due to fall from the train, cannot be ruled out. Mere fact that deceased fell near his house cannot be a ground to discard overwhelming evidence on record suggesting that the deceased was travelling in train.



9. Further the Tribunal non-suited the claim of the claimants on the ground that there were multiple contradictions in the testimony of the AW-1. The discrepancies were in his version during cross-examination and in the DRM's enquiry. He was held to be contradictory on the ground that he could not disclose the name of the villagers who had informed him about the death of his brother. Neither in his claim application nor in evidence, he stated anywhere that he had gone to drop his brother. Just because there were minor discrepancies in the version of the witness, it cannot be held fatal enough to negate the claim of the claimants.

10. The Tribunal further dismissed the claim on the ground that the deceased was not a *bonafide* passenger and the ticket placed on record was a planted one. Once the claimant has proved valid ticket on record, the onus shifted upon the railways to rebut the same and prove otherwise. But the railways failed to rebut the same by leading cogent evidence.

11. In view of above and in light of the law laid down by the Supreme Court in the case of '**Union of India vs. Rina Devi**', (2019) 3 SCC 572, this Court holds that the deceased was a *bonafide* passenger and the incident is an untoward incident as enumerated under the definition of Section 123(c)(2) of the Act. Thus, he would be entitled to compensation under Section 124A of the Act.



12. The accident relates to the period post the amendment of 2017 which came into effect w.e.f. 01.01.2019. Thus, the compensation payable shall be as per amended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990. Compensation of Rs.8,00,000 along with interest @ 9% per annum is payable for the period from the date of application till the date of actual realization.

13. The appeal is allowed.

March 07, 2025

Dpr

**(Pankaj Jain)
Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No