



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

**FAO No.16115 of 2018
Date of decision : 21.02.2025**

Kamlesh and others

....Appellants

Versus

Union of India

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. S.C. Sachdeva, Advocate
for the appellants.

Mr. Harneet S. Oberoi, Advocate
for the respondent/UOI (through V.C.)

PANKAJ JAIN, J. (ORAL)

1). The claimants are in appeal aggrieved by order dated: 09.07.2018 in Case No. OA-II/102/2016 passed by the Ld. Railway Claims Tribunal, Chandigarh Bench, Chandigarh, wherein the claim petition filed by the applicants claiming compensation of Rs.10,00,000 for the death of Neetu Singh was dismissed.

2). The brief facts of the case are that on 16.08.2015, the deceased boarded the train and when the train reached between Dhola Majra – Shahabad Markanda stations, the deceased accidentally fell from the train and died on the spot. The train ticket is said to have been lost in the accident.



3). The respondent-railways filed written statement denying the averments of application and contended that the deceased is not a *bonafide* passenger and that it was not an untoward incident. It was further contended that the claim does not fall within the ambit of Section 123(c) or Section 124A of the Railway Claims Tribunal Act. The applicants have failed to produce journey ticket and there was no negligence on the part of the railways to cause the death of the deceased.

4). Based on the pleadings of the parties, 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 Section 123(c)(2) read with Section 124-A of the Railways Act?*
3. *Whether the applicants are the sole defendants of the deceased?*
4. *Relief.”*

5). The claimants to substantiate their claims, filed affidavits of AW-1, AW-2 and placed on record documents Ex. AW-1/1 to AW-1/25. On behalf of the respondents, DRM report was placed on record. The Tribunal after considering the evidence on record, dismissed the application observing that the deceased was not a *bonafide* passenger and that the



deceased did not die in an untoward incident. Aggrieved by the said order, the claimants have preferred the appeal.

6). Counsel for the claimants submit that Kamlesh (AW-1) is the widow of the deceased. She was cross-examined and has reiterated the averments made in the application. She deposed that the ticket is stated to be lost at the time of the accident. Ravinder, AW-2, deposed that he purchased the ticket for the deceased.

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

8). The main contention of the counsel for the appellants is that they proved their case by examining AW-1, AW-2 and relying upon documents Ex. AW- 1/1 to AW-1/25. AW-1 is none other, but the wife of the deceased and she has reiterated the averments of the application in chief-examination. She deposed that journey ticket is stated to be lost at the time of the accident. In her cross examination, it was elicited that she is not an eyewitness to the purchase of the ticket, and she has not seen her husband boarding the train and falling from the train. Since, the wife of the deceased was not travelling along with the deceased, it is not possible for her to witness the fall of deceased from the running train. However, it is an admitted fact that body of the deceased was lying on the railway track.

9). As per the application moved to SMO by the Railway police officials, it has been held that the death was due to fall from the train. As per



the post-mortem report, the dead body was intact and was found lying on the ground. Further, as per the verification report of SHO, it is evident that death had occurred due to fall from the moving train. Thus, the documentary evidence relied upon by the appellants, establish that the deceased was travelling in the train and he accidentally fell down from the train.

10). The mere contention of the respondent-railways that the deceased died due to his own criminal negligence is not sufficient. There must be some convincing and cogent evidence to establish an assertion. The respondent did not make any efforts to examine any of the persons available at the time of the incident to establish that the deceased has committed suicide or any criminal act dis-entitling the appellants from claiming compensation.

11). The Supreme Court in the case of **Union of India vs. Prabhakaran Vijaya Kumar and others, 2008(3) RCR (Civil) 577**, while considering the definition of ‘untoward incident’ with respect to the expression ‘accidental falling of a passenger from a train carrying passengers’ in Section 123(c) of the railways act, has observed that if we attach a restrictive meaning to the expression, we will deprive large number of railway passengers from getting compensation in railway accidents. Supreme Court observed as under:

“14. In our opinion, if we adopt a restrictive meaning to the expression 'accidental falling of a passenger from a



train carrying passengers' in Section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger i.e. a passenger traveling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal, interpretation should be given to the expression."

12). In view of above, the respondent railways have failed to produce any substantial evidence on record to prove that the deceased was not a *bonafide* passenger, nor has it established that the deceased committed some criminal act dis-entitling him to claim compensation. The present appeal is allowed.

13). The accident relates to the period prior to the amendment of 2017 which came into effect on 01.01.2017. Thus, the compensation shall be as per un-amended schedule appended to the Railway Accident and



Untoward Incidents (Compensation) Rules 1990. Compensation of Rs 4,00,000 along with interest @ 9% per annum or Rs 8,00,000 whichever is higher is payable for the period from the date of application till the date of actual realization.

February 21, 2025

(Pankaj Jain)
Judge

Dpr

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