



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

204

**FAO-3089-1999 (O&M)**  
**Reserved on : 27.03.2026**  
**Pronounced on : 29.05.2026**  
**Uploaded on : 01.06.2026**

*Whether only operative part of the judgment is pronounced?*      *No*  
*Whether full judgment is pronounced?*                              *Yes*

**Union of India through its General Manager, Northern  
Railway, Baroda House, New Delhi**

**..... Appellant**

**versus**

**S.K. Upadhyay**

**..... Respondent**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present:      Mr. Navjit Singh, Central Govt. Counsel  
for the appellant-UOI.

Mr. Adarsh Malik, Advocate and  
Ms. Vani, Advocate  
for the respondent.

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**PANKAJ JAIN, J.**

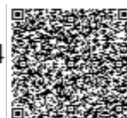
1.            Appellant is aggrieved of the award passed by RCT, Chandigarh whereby the applicant has been held entitled for compensation of Rs.4 lakh on account of death of her grand daughter, who died along with other family members in railway accident.
2.            It is not in dispute that the deceased Krishana Ben Uppadhyay was travelling along with her parents and grandmother in train No.3152 Dn, Sealdah Express train, ex. Jammu Tawi to Saharanpur which collided with Golden Temple Mail train near Khanna on 26.11.1998.



3. The only ground raised in appeal is that the grandfather being not dependent upon his grand daughter, cannot maintain petition under the Railways Act to seek compensation on account of death of grand daughter.

4. The issue is squarely covered by ratio of law laid down by Division Bench of this Court in ***Dhyan Singh and another vs. Union of India and others*** reported as **2008(4) PLR 550**. The precise issue arose before the Division Bench. While answering the issue Division Bench observed as under:-

“11. The provisions of the Motor Vehicles Act, 1939, authorised a legal representative of the deceased to claim compensation. Under the Railway Act, the legal representatives have not been specifically made eligible to apply for compensation. The Railway Act being a Central Act, as also Fatal Accidents Act, can be deemed to supersede such provisions of the Fatal Accidents Act for which corresponding provision is made under the Railways Act. Since there is no corresponding provision in the Railway Act in respect of compensation for the loss of estate and the person entitled to claim compensation, would continue to be governed by the provisions of Fatal Accidents Act, 1855. Therefore, loss to the estate falling within Section 2 of the Fatal Accidents Act, 1855 could be claimed by the legal representatives of the deceased. The Railways Act will only supersede the provisions of Section 1A of the Fatal Accidents Act, 1855, whereas loss to the estate computable under section 2 of the Fatal Accidents Act can be claimed by the legal representatives but from a forum created under the RCT Act in view of the bar of jurisdiction of civil Court. The provisions of Section 2 of the Fatal Accidents Act, 1855, cannot be deemed to be superseded by enactment of Railways Act and the Railway Claims Tribunal Act, 1987. The substantive right created by the Fatal Accidents Act, 1855, cannot be deemed to have been curtailed in any manner by the enactment of the aforesaid Acts. The subsequent enactment has only changed the forum from the

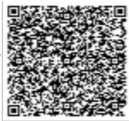


Civil Court to Tribunal constituted under the Railway Claims Tribunal Act, 1987. Thus, the compensation on account of loss of estate could be claimed by the eligible legal representatives from the Railway Claims Tribunal in accordance with the procedure prescribed under the Railways Act.

12. The matter can be examined from another angle as well. Section 123(b) of the Railways Act defines "dependent" to include minor brother if dependent partly or wholly on the deceased passenger. The word dependency is not restricted to economic dependence but dependence of love, affection, care and protection of the deceased passenger as well. The word "dependent" in clause (ii) or Section 123(b) of the Railways Act is not to be given restrictive meaning but contextual meaning keeping in view the objective of the statute so as to compensate unfortunate death of a passenger in railway accident. Such provision cannot be interpreted so as to benefit the tortfeasor which in the present case would be the Railways. Sub-section (ii) of Section 123(b) of the Railways Act deals with dependency wholly or in part, therefore, the dependence of care at protection, love and affection by the deceased on their minor brother would be dependence within the meaning of the Act. It may be noticed that the parental grand parents can be said to be dependents only if they are wholly dependent on the deceased passenger. Such dependency is in contravention to even par dependency of a minor brother under clause (ii) of Section 123(b) of the Railways Act.”

5. Keeping in view the fact that Division Bench of this Court held that word dependency is not restricted to economic dependence but dependence of love, affection, care and protection, this Court finds that a grand parents cannot be precluded from claiming compensation on account of death of a grand child. Their dependence on the grand child for love, affection, care and protection is hard to be ignored.

6. There being no other grand child of the claimant, this Court finds that the Tribunal rightly awarded compensation in favour of the



respondent-claimant.

7. Finding no merit in the present appeal, the same is ordered to be dismissed.

8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)  
JUDGE

29.05.2026  
Dinesh

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|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |