

2025.PHHC:025372



FAO-4437-2019 (O&M)

[223] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4437-2019 (O&M)
Date of Decision : 14.02.2025

Suraj Parkash (since deceased)
through his LR and another ...Appellants

versus

Union of IndiaRespondent

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

Present: Mr. Sachin Gupta, Advocate for
Ms. Ashima Mor, Advocate
for the appellants.

Ms. Saigeeta Srivastava, Senior Panel Counsel
for the respondent-UOI.

PANKAJ JAIN, J. (ORAL)

CM-14633-CII-2019

[1] For the reasons recorded in the application, this Court is satisfied that the appellants have made sufficient cause for condonation of delay of 210 days in filing of the appeal.

[2] Application stands **allowed** and delay of 210 days in filing of the appeal is condoned.

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[3] Appeal is against order dated 31.05.2018 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, whereby, the claim petition filed by the appellants, seeking compensation on account of death of Rakesh Kumar in an untoward incident dated 20.10.2016 stands dismissed.



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The claimants are parents of the deceased- Rakesh Kumar, who approached Railway Claims Tribunal, claiming that the deceased along with his friend, after purchasing one railway ticket from Railway Station Patiala, was going to Ambala Cantt. In the night, he fell down from the running train between railway stations Ambala Cantt and Ambala City and died on the spot. It was further claimed that the deceased moved from one line to another and tried to save himself, but he died after reaching the other side. The claimants thus, prayed for compensation on account of death of Rakesh Kumar.

[4] The claim petition was contested by Railways, who claimed that the incident does not fall within the provisions of Sections 124-A of the Railways Act. The ticket alleged to have been purchased by Rakesh Kumar were for three persons and not for two adults. This fact goes to show that the same was a procured one. Further the deceased was allegedly travelling from Patiala to Ambala Cantt. which is on Down Line, whereas his dead body was found lying outside the track of Up Line, notice only by the Key Man in the morning hours of 21.10.2016. It is not possible that the same remained unnoticed for such a long time by the drivers or the guards of the trains passing through such a busiest track.

[5] Learned Tribunal put the claim petition on trial, framing 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 Railway Act?*
3. *Whether the applicants are the sole respondents of the deceased?*



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4. *Relief.* ”

[6] Parents of the deceased were confronted with the averments made in the claim petition to the effect that one injured was also found lying near the dead body of the deceased outside the Up Line and there was not a whisper either in the JRP papers or the RPF papers about the identity of the injured person.

[7] On the basis of the aforesaid contradiction, learned Tribunal held that the claimants failed to prove that the deceased was a *bonafide* passenger and dismissed the claim petition. However, there is no dispute regarding the appellants being sole dependents of the deceased.

[8] In the considered opinion of this Court, keeping in view that ticket bearing No.88460147 dated 20.10.2016 was meant for three persons for journey from Patiala to Ambala were purchased, the alleged contradiction cannot be held to belie the stand of the claimants that deceased indeed purchased ticket and travelled on the said train. The confusion is with respect to number of persons travelling on the said tickets.

[9] Otherwise, also the issue is squarely covered by ‘**Union of India versus Rina Devi**’, (2019) 3 Supreme Court Cases 572, wherein Supreme Court observed as under:-

“15.4 Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which



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have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (supra) and Kalandi Charan Sanhoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (supra) holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.”

[10] Keeping in view that deceased's body was found from the railway track and even Ambulance was called for the deceased and Government ambulance for the injured person, and that one railway ticket was recovered from the pocket of the deceased, in the considered opinion of this Court, the evidence adduced by the claimants has gone un rebutted.

[11] In view thereof, this Court finds that the issue is squarely covered by ratio of law laid down in 'Rina Devi's case (supra)'. Learned Tribunal erred in recording finding on Issue Nos.1 & 2 against the claimants. The same is thus reversed. So far as issue with respect to death of deceased-Rakesh Kumar in a railway accident is concerned, the same stands proved by DRM's inquiry report.

[12] There is no evidence to indicate that the fall or injury suffered by deceased-Rakesh Kumar was with an intention to inflict self injury. Resultantly, the accident is held to be an untoward incident. Consequently, findings recorded by the learned Tribunal on both issues need to be reversed

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and is ordered accordingly.

[13] Keeping in view that the accident is dated 20.10.2016, the claim needs to be dealt by under the amended Schedule, 2014. Resultantly, the appeal is **allowed** and the claimants are held entitled for **Rs.8,00,000/-**.

[14] All pending miscellaneous application(s), if any, also stands *disposed off*.

(PANKAJ JAIN)
JUDGE

14.02.2025
'R. Sharma'

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