



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

FAO-7669-2017

Date of decision : 25.04.2025

MUNGIYA DEVI & ORS

....Appellants

Versus

UNION OF INDIA

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Mukul Singla, Advocate
for the appellants.

Mr. R.C. Sharma, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Challenge is to the award dated 03.07.2017 passed by RCT Chandigarh Bench, Chandigarh, whereby claim petition filed by appellants seeking compensation on account of death of Sanjay Dass son of Kamleshwari Dass, in an untoward incident involving railways, stands dismissed.

2. Claimants approached Tribunal claiming that on 25.12.2013 deceased was going to his home-town (Mathepura) and reached Sirhind railway station. He was accompanied by the co-villagers. One ticket from Sirhind to Saharsa was purchased by the deceased. One common platform ticket was purchased for the three accomplices. Deceased boarded train No.14604 DN. There was heavy rush in the general coach. On account of



jerk, the deceased accidentally fell down and got seriously injured. The train was immediately stopped. Station Master was informed by the guard. Memo to GRP was issued. Deceased was got admitted in Civil Hospital, Fatehgarh Sahib from where he was referred to PGIMER, Chandigarh. Deceased succumbed to his injuries in PGIMER, Chandigarh on 26.12.2013. Claimants thus claimed that the deceased having lost his life in an untoward incident, they are entitled for compensation in terms of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990.

3. The claim was contested by the respondent/railways. It was denied that the deceased was a *bona fide* passenger. It was further claimed that the deceased was trying to board a moving train negligently and carelessly and thus died on account of his own negligence and not in an untoward incident.

4. On the basis of pleadings, following issues were framed :

- “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 applicant(s) is/are the sole dependant(s) of the deceased?
4. Relief.”

5. Tribunal held that since the tickets were handed-over in *fard peshkardagi* on 28.12.2013 and not on 25.12.2013, the same are planted one.



Disbelieving the version of the claimants that deceased boarded train after purchasing ticket, the Tribunal held the deceased not to be a *bona fide* passenger. Further reliance was placed upon ratio of law laid down by Allahabad High Court in the case of '**Dinesh Kumar Singh vs. Union of India**' - **FAO No.1023 of 2010**, dated 28.08.2010 to hold that even in the case of loss of ticket, the purchase of ticket has to be established.

6. Tribunal answered issued No.2 also against the claimants holding that even though it has been proved that the incident occurred at Saharsa railway station but the claimants could not prove that the same was an untoward incident as contemplated under Section 123(c) read with Section 124-A of the Railways Act.

7. Counsel for the appellants/claimants has assailed the findings recorded by the Tribunal. It has been contended that it is not a case wherein the deceased succumbed to his injuries on the spot. He suffered injuries on 25.12.2013. He was taken to Civil Hospital, Fatehgarh Sahib from where he was further referred to PGIMER, Chandigarh and died on 26.12.2013. Thus, it was quite natural that the documents were handed-over to the investigating agency thereafter. The said documents included the journey ticket as well. He further submits that a specific affidavit was filed by the claimant Mungiya Devi (AW1) to the effect that the deceased boarded train after purchasing ticket to travel from Sirhind to Saharsa railway station. The same amounts to sufficient compliance to prove that the deceased was a *bona fide* passenger in terms of the ratio of law laid down by the Supreme



Court in ‘**Union of India vs. Rina Devi**’, (2019) 3 SCC 572. Thus, the findings recorded by the Tribunal on issue No.1 cannot be sustained.

8. It has been further contended that the statutory inquiry conducted by the railway authorities, also proves that the deceased died of fall from the train. In the absence of there being any evidence led by the railways to prove that the injuries suffered were self-inflicted, the negligence, if any, on part of the deceased, cannot be held to hold that the accident that led to the death of the deceased, was not an untoward incident.

9. Per contra, Mr. Sharma submits that the deceased fell from the train on 25.12.2013. Tickets were produced only on 28.12.2013 i.e. after delay of 04 days. Thus, the possibility of the tickets being procured one, cannot be ruled out. He thus submits that the Tribunal rightly read the evidence to hold that the deceased was not a *bona fide* passenger and rightly dismissed the claim petition filed by the claimants.

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

11. So far as the factum of deceased having died after falling from the train is concerned, the same is not in dispute. Even the testimony of RW1 Raj Kumar son of Puran Chand, Train Guard HQ Saharanpur Train No.14604 DN, proves the same. Thus, the question is :

“Whether railways led any evidence to prove that the injuries suffered by the deceased were self-inflicted?”



12. Perusal of the record shows that there is no such evidence led to prove that the injuries were self-inflicted or there was any intent on part of the deceased to suffer the same.

13. In view thereof, this Court has no hesitation in holding that the deceased died of an 'untoward incident' as contemplated under Section 123(c) and Section 124-A of the Railways Act. Reliance can be placed upon following observations made in *Rina Devi's* case (supra) :

“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.”

14. Coming on to the issue w.r.t. the deceased being *bona fide* passenger, admittedly the deceased was transported from place of incident i.e. railway station Sirhind to Civil Hospital Fatehgarh Sahib. From Civil Hospital Fatehgarh Sahib, he was further referred to PGIMER, Chandigarh.



He succumbed to his injuries on 26.12.2013. Till 28.12.2013, when the tickets were produced, there is no evidence w.r.t. *jamatalashi* of the deceased. Thus, the finding recorded by the Tribunal to the effect that the ticket was not produced on 25.12.2013, does not cut any ice. Once, the deceased died and the police undertook the investigation, it is only when the police asked for the documents that the tickets in question were presented on 28.12.2013 to the police authorities. The same were taken by the police authorities in their custody. The aforesaid evidence in the light of the affidavit of claimant regarding deceased having purchased ticket, is sufficient to hold that the deceased was a *bona fide* passenger.

15. In view of above the findings recorded by the Tribunal cannot be sustained and deserved to be set aside.

16. As a sequel of the discussion held hereinabove, this Court finds that the present appeal deserves to be allowed.

17. Keeping in view that the date of accident is dated 26.12.2013, claim has to be governed by 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 actual realization or Rs.8.00 lacs without interest, whichever is higher.

18. Needless to observe, in case, the compensation amount is not deposited with the Tribunal within a period of 8 weeks, the same shall carry



interest of 9% per annum for further period, irrespective of whether the amount is Rs.4.00 lacs with interest, or Rs.8.00 lacs.

April 25, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No