



FAO-7308-2016(O&M)

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

214

**FAO-7308-2016 (O&M)
Date of decision : 07.02.2025**

Durgawati and others

... Appellants

Versus

Union of India

... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. R.K. Saini, Advocate for the appellants.

Ms. Neha Sharma, Advocate for the respondent.
(Through video conferencing)

Pankaj Jain, J. (Oral)

1. Claimants are in appeal aggrieved of award dated 16.05.2016 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby the claim petition filed seeking compensation on account of death of Mukh Lal in an untoward incident involving railway dated 20.10.2012, stands dismissed.
2. As per the claimants, the deceased Mukh Lal went to railway platform, Jagadhari to see off his brother, who was to board train and was going from Jagadhari to his native place. Mukh Lal purchased railway platform ticket. He was sitting with his brother in a railway compartment and was in process of de-boarding the train after seeing him. On account of heavy rush and sudden movement of train, he fell down and died. The claimants thus seek compensation for death of Mukh Lal in the aforesaid untoward incident.



FAO-7308-2016(O&M)

3. The claim petition was resisted by the respondent claiming that the deceased Mukh Lal was not a bona fide passenger. The tribunal framed 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 Sect. 123(C)(2) read with Section 124-A of the Railways Act?*
3. *Whether the applicant(s)/ is /are the sole dependent(s) of the deceased?*
4. *Relief.”*

4. While answering issue no.1, Tribunal held that even though Mukh Lal was holding valid platform ticket, however, he cannot be held to be a bona fide passenger as he had no reason to be in the railway compartment. The tribunal thus dismissed the claim petition filed by the claimants.

5. Learned counsel for the appellant while assailing the impugned award passed by the Tribunal relies upon the judgments of Delhi High Court in FAO-216-2019 decided on 03.01.2017 titled as **Saraswati Devi and others versus UOI** and FAO-171-2012 decided on 03.03.2014 titled as **Raj Bal and others versus Union of India** to submit that the person holding valid platform ticket falls within the definition of bona fide passenger and is entitled to the compensation on account of death/injuries suffered in an untoward incident. He thus submits that the findings recorded by the Tribunal being in teeth of law cannot be sustained.

6. Per contra, learned counsel for the respondent submits that the deceased was only holding platform ticket. He was expected to be on platform only. As per the case of the claimants, the deceased died while deboarding the



FAO-7308-2016(O&M)

train. Thus as per their own case, deceased having died while deboarding the train without their being any train ticket, is not a bona fide passenger and the tribunal has rightly non-suited his claim.

7. I have heard learned counsel for the parties and carefully gone through the record of the case.

8. Chapter XIII of the Railways Act, 1989 deals with liability of Railway Administration for death and injuries to the passenger due to the accidents. Section 124-A contained therein reads as under:-

*“[124A. Compensation on account of untoward incidents.—
When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only of loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:*

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;



(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.—For the purpose of this section, “passenger” includes—

(i) a railway servant on duty; and

(ii) a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.]”

9. Explanation appended to Section 124-A of the 1989 Act specifically provides that passenger for the purpose of Section 124-A includes a person who has purchased a valid platform ticket and becomes a victim of an untoward incident. It has come on record that the deceased Mukh Lal was indeed in possession of a valid platform ticket. It is also not in dispute that he died in an incident which falls within the definition of untoward incident as contemplated under Section 123 (c) of 1989 Act.

10. In view of the above, this Court finds that the Tribunal grossly erred in misreading bare provisions as contained in Section 124-A of the Act, 1989 and adding additional dimension to the explanation appended to the provision. Trite it is that even the Constitutional Courts are precluded from supplying *cosus omissus* in the absence of their being any gap in the provision and necessity to supply the same. Tribunal ought not have distorted the bare provision of law.

11. In view of the above, the findings recorded by the Tribunal are hereby reversed. It is held that in terms of the evidence that has come on record



FAO-7308-2016(O&M)

deceased Mukh Lal, who was a bona fide passenger, who has lost his life in an untoward incident involving railways.

12. In view of the provisions as contained under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 are held entitled to compensation of Rs.8 lacs as per part-I of the Schedule appended to the Rules. The claimants are also held entitled to interest at the rate of 9% per annum from the date of filing of the claim petition till the date of actual realization.

13. In view of the above, appeal is allowed.

14. Pending application(s) shall stand disposed of accordingly.

(PANKAJ JAIN)
JUDGE

February 07, 2025
A.Kaundal

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