

FAO-6074-2015(O&M)

2025-PHHC-075587



212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6074-2015 (O&M)
Date of decision :15.05.2025

Jaspreet Kaur & ors.

..... Appellants

Versus

Union of India

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Saurabh Garg, Advocate
for the appellants.
(Through V.C.)

Ms. Amrita Singh, Advocate
for the respondent-UOI.
(Through V.C.)

PANKAJ JAIN, J. (ORAL)

1 Claimants are in appeal. Challenge is to the award dated 18.03.2015 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby claim petition filed by the claimants seeking compensation on account of death of Gurlal Singh in an untoward incident stands dismissed.

2 As per claimants on 30.08.2010 deceased boarded train No.5 LF from Jagraon Railway Station. He was travelling to Nanaksar Railway Station. The deceased accidentally fell from the running train and succumbed to his injuries. As per the claimants the deceased was travelling on a valid general ticket from Moga to Nanaksar. The ticket was lost during the

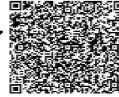


accident. Thus the deceased having died in an untoward incident as a bonafide passenger, railway is liable to pay compensation to the claimants. The claim was contested by the railway. It was denied that the deceased died as a bonafide passenger. As per the respondent no untoward incident led to death of Gurlal Singh as he lost his life owing to his own negligence.

3 On the basis of the pleadings Tribunal framed the following issues :-

- “1. Whether the deceased was a bonafide passenger at the time of incident?*
- 2. Whether the incident is covered within ambit of Section 123(c) (2) read with section 124-A of the Railways Act?*
- 3. Whether the applicant(s) is/are the sole dependants of the deceased in this case?*
- 4. Relief.”*

4 While deciding issue No.1 Tribunal referred to the pleadings made in para No.7 of the plaint, as per which the deceased was travelling from Ferozepur to Ludhiana and found that the Train No.5LF since goes from Ludhiana to Ferozepur via Jagraon, Nanaksar and Moga in sequence the story put forth by the claimants cannot be believed. Holding that the deceased was not a bonafide passenger Tribunal dismissed the claim petition filed by the claimants. On issue No.2 the Tribunal found that in order to claim compensation on account of death due to a train accident, victim or his dependents are required to establish that the victim or the deceased accidentally fell from the train. In the present case the applicants having failed to establish the same and it having come on record that he was



making dare-devil efforts to enter in a moving train, the deceased cannot be held to have died in an untoward incident as contemplated under Section 123 (c) (2) of the Railways Act, 1989.

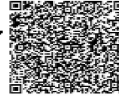
5 I have heard counsel for the parties and have gone through the records of the case.

6 The precise issue of bonafide passenger and untoward incident have been answered by Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** observing as under :-

“29. We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.

Xxxxx xxxx xxxxx

25. 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."

7 Applying the aforesaid parameters to the present case the pleaded case of the claimants as per the claim statement is that Gurlal Singh-deceased boarded train from Jagraon for Nanaksar. Merely for the reason that in para 7 it has been mentioned that he was travelling on ticket from Moga to Nanaksar while specifying the class of the travel, story put forth by the claimants does not get belied when admittedly even as per the case of the respondent based upon the statement of Kartar Chand, Station Master, Jagraon the deceased fell while trying to board train No.5 LF. AW-2 proved on record that the deceased purchased ticket to board train. His statement has been brushed aside merely for the reason that he is not related to the deceased. In order to see off an acquaintance, one does not need to be related by blood.

8 In view thereof this Court finds that the findings recorded by the Tribunal on issue No.1 regarding the deceased being not a bonafide passenger is perverse and cannot be sustained. Case of the claimants is fully covered by ratio of law laid down by Supreme Court in the case of ***Rina Devi's case (supra)***. The deceased is held to be a bonafide passenger.

9 Coming on to the issue of untoward incident, Station Master himself deposed during DRM inquiry that the deceased died while boarding moving train. Though he claimed that the deceased was boarding moving train, however, there is no evidence that there was any intention on part of



the deceased to self inflict injury. Thus issue No.2 is also covered in favour of the claimants by the ratio of law laid down in *Rina Devi's case (supra)*.

10 In view thereof, this Court finds that the findings recorded by the Tribunal on issues No.1, 2 and 4 need to be reversed. The claimants are held entitled for compensation on account of death of Gurlal Singh who died in an untoward incident involving railways as a bonafide passenger.

Date of accident :- 30.08.2010

11 Claimants are held entitled for compensation of Rs.4.00 lakhs as per unamended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990 along with interest @9% per annum from the date of incident till the date of actual realization or Rs.8.00 lakhs whichever is higher.

12 The claimants shall move an appropriate application giving details of their bank account before the Tribunal within a period of 4 weeks with an advance copy to the Railways. After receiving advance copy with respect to details of bank accounts, Railways shall within a further period of 12 weeks deposit the entire compensation payable to the claimants in the bank accounts. In the event of failure of Railways to deposit the compensation within the prescribed period of 12 weeks, the Railways shall be liable to pay interest @9% per annum from the date of passing of this order till the date of actual realization.

13 As a sequel of the discussion held hereinabove, it is held that the deceased was a bonafide passenger, who suffered injuries in an untoward incident. Consequently, the present appeal is allowed.

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14 Pending miscellaneous application, if any, also stands disposed off.

15.05.2025

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No