



219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-18164-CII-2024 in/and
FAO-4850-2024 (O&M)
Date of decision : 08.08.2025

VIBHA DEVI AND ORS

....Appellants

Versus

UNION OF INDIA

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ujval Mittal, Advocate
for the applicants/appellants.

Mr. Aseem Aggarwal, Advocate
for the respondent/UOI.

PANKAJ JAIN, J. (ORAL)

CM-18164-CII-2024

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 844 days in filing the instant appeal.

Reply to the application has been filed on behalf of respondent/UOI today in Court. The same is taken on record.

For the reasons recorded in the application, this Court is satisfied that the applicants/appellants have made out a sufficient cause for condonation of delay.



Consequently, the present application is allowed. The delay of 844 days in filing the instant appeal is hereby condoned.

FAO-4850-2024 (O&M)

Challenge is to the award dated 23.03.2022 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby claim petition filed by the appellants/claimants seeking compensation on account of death of Jay Kumar Yadav in an untoward incident, dated 13.02.2019 while travelling in passenger train, has been declined.

2. As per the claim application, the deceased was a labourer and was travelling from Katihar to Jalandhar to earn his livelihood. He commenced his railway journey from Katihar railway station on 11.02.2019 and travelled to Patna. From Patna, he boarded train for New Delhi and reached his destination in the intervening night of 12-13/02.2019. At Delhi, he purchased another ticket for Jalandhar and boarded the train. While the train was running between Shambhu and Rajpura, the deceased accidentally fell from the train and died on the spot. The body was discovered by the railway authorities. From the dead body, journey ticket ex. Katihar to Patna and one ticket ex.-New Delhi to Jalandhar City along with mobile and cash of Rs.30 were recovered. Family members of the deceased were informed. The deceased was cremated in Punjab.

3. Claim was contested by the respondents denying that the deceased was a *bona fide* passenger or that he lost his life in an untoward



incident as contemplated under Section 123(c)(2) read with Section 124-A of the Railways Act, 1989.

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

- “1. Whether the deceased was a bonafide passenger of the train at the time of alleged incident?
2. Whether the alleged incident is covered within the purview of untoward incident as defined under Section 123(c)(c) read with Section 124-A?
3. Whether the applicants are the only dependents of the deceased?
4. Relief?”

5. While disbelieving the claim, Tribunal found that the deceased cannot be treated as a *bona fide* passenger. In order to conclude so, Tribunal relied upon report submitted by Chief Booking Supervisor, New Delhi, stating that the ticket was issued from New Delhi Counter No.29 on 13.02.2019 in a shift from 12:00 to 20:00 hours. Tribunal further held assuming that the deceased commenced his travel from Delhi at 12:00 hrs. on 13.02.2019, it is highly improbable that his body could be found between Rajpura and Shambhu at 13.45 hrs as the train is not expected to cover distance of around 225 Kms. within 1 hr 45 minutes. Holding that deceased was not a *bona fide* passenger, Tribunal disbelieved death of the deceased in an untoward incident. Tribunal held that the onus to prove the same was on the claimants. They having failed to establish that the victim or the deceased accidentally fell from the train, Issue No.2 was also decided against the



claimants by the Tribunal and the claim petition was ordered to be dismissed.

6. Ld. Counsel for the appellants has assailed the findings recorded by the Tribunal asserting that the Tribunal totally misread the evidence on record. Counsel has referred to the ticket recovered from the person of the deceased by the railway authorities to demonstrate that even as per the ticket, the same was issued at 02:14 hours on 13.02.2019. He submits that once the ticket itself explicitly carried the time and date of issuance thereof, the report submitted by the Chief Booking Supervisor and relied upon by the Tribunal, is inconsequential. He further submits that the report ought not have been relied upon by the Tribunal in the absence of any formal mode of proof as the author thereof was never examined. He further demonstrates that the report reads morning shift from 12:00 to 8:00 hrs. which was cut with the pen to say 12:00 to 20:00 hrs. By referring to the aforesaid cutting, counsel submits that morning shift from 12:00 to 20:00 hrs. is highly improbable. The same has to be morning shift from 12:00 to 8:00 hrs.

7. Per contra, counsel for the respondent/UOI submits that a verification report was called. As per the same, the ticket was issued in a shift from 12:00 to 20:00 hrs. and thus Tribunal has rightly non-suited the claimants as it is highly improbable that having commenced his journey at 12:00, the deceased could have fallen at 01:45 at a distance of 225 Kilometer



from Delhi i.e. the station from where the deceased commenced his journey on the ticket claimed.

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

9. It is a matter of record that a ticket was recovered from person of the deceased w.r.t. journey from Delhi to Jalandhar. The ticket itself carries the date and time of the issuance. The same is 02:14 hrs. on 13.02.2019. Once, the document itself carried the time and date, the report cannot be read to dislodge the same, that too when the author thereof has not been examined.

10. In view thereof, this Court finds that the Tribunal totally erred in ignoring the ticket and relying upon a verification report, which itself is under the cloud of suspicion.

11. Resultantly, findings on Issue No.1 are hereby reversed. It is held that the deceased was a *bona fide* passenger.

12. So far as the issue regarding 'untoward incident' is concerned, it is not disputed that the dead body of the deceased was discovered from the railway track. There is no evidence to suggest that there was any intent on part of the deceased for suffering self-inflicted injuries. More so, the fact that the deceased travelled from Katihar upto Patna and thereafter from Patna to Delhi and was further travelling from Delhi to Jalandhar, itself shows that he was a *bona fide* passenger, who lost his life in an 'untoward incident' in the absence of any evidence led by the railways to dislodge the



same. Reference can be made to the following observations made by Supreme Court in '**Union of India vs. Rina Devi**', (2019) 3 SCC 572 :

“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.”

13. In view of above, the present appeal is allowed holding that the deceased Jay Kumar Yadav lost his life in an untoward incident while travelling in a train.

Relief:

14. Keeping in view that the date of accident i.e. 13.02.2019 is after the amendment in the Scheduled appended to the Railway Accident and Untoward Incident (Compensation) Rules, 1990, the claimants shall be entitled for Rs.8.00 lacs along with interest @ 7% per annum from the date of accident till the date of actual realization.



15. Keeping in view that the present appeal has been preferred after inordinate delay of 844 days, the claimants will not be entitled for interest for the said period.

16. The amount of compensation i.e. Rs.8,00,000/- lacs shall be distributed as under:

Claimant(s)	Relationship with deceased	Amount of compensation
Claimant No.1 – Vibha Devi	Wife	Rs.2,00,000/-
Claimant No.2 – Chandan Yadav	Father	‘Nil’
Claimant No.3 – Sita Devi	Mother	Rs.1,00,000/-
Claimant No.4 – Rimjhim Kumari	Daughter	Rs.2,50,000/-
Claimant No.4 – Rahul Kumar	Son	Rs.2,50,000/-

17. 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.

18. Needless to say, so far as the amount of Rs.2,50,000/- each, payable to **Rimjhim Kumari and Rahul Kumar**, the minor children, is concerned, the same shall be kept in **FDR with a Nationalized Bank** till the age of majority.



19. Ordered accordingly.
20. Pending application, if any, shall also stands disposed off.

August 08, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No