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

FAO-1600-2020

Date of decision : 19.09.2025

GHEWAR KANWAR AND ORS

....Appellants

Versus

UNION OF INDIA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Anand Singh, Advocate
for the appellants.

Mr. H.S. Oberoi, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Present appeal is directed against award dated 05.08.2019 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby petition filed by the appellants seeking compensation on account of death of Sayar Singh in an untoward incident involving Railways, on 17.11.2017 while travelling by Jodhpur-Rewari Passanger train Ex. Didwana to Loharu, stands dismissed.

2. As per the claimants, deceased was travelling from Didwana to Loharu. He boarded Jodhpur-Rewari Passanger train after purchasing ticket. After train reached Loharu Junction railway station, deceased tried to de-board the train. While he was de-boarding, the train suddenly started moving with a jerk. Deceased slipped and lost his balance. He accidentality



fell down on the track and got trapped in the gap between the train and the platform. He was dragged by the moving train. He sustained grievous injuries. He was rushed to Civil Hospital, Loharu. From where he was referred to Government Hospital, Bhiwani and thereafter to PGIMS, Rohtak. He succumbed to his injuries. During physical search of dead body of the deceased, railway journey ticket Ex. Didwana to Loharu was recovered. The claimants thus claimed that deceased who was travelling as a *bona fide* passenger having lost his life in an untoward incident, they are entitled for compensation.

3. Claim petition filed by the claimants was contested by the respondents. The untoward incident was denied. It was denied that the deceased was a *bona fide* passenger. Reliance was placed upon DRM's report and inquest proceedings to claim that the deceased having tried to de-board the train while it was in motion, he lost his life due to his own negligent act and not due to any fault on part of Railways.

4. Tribunal framed the 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 Section 123(c)(2) read with Section 124-A of the Railways Act?
3. Whether the applicants were the sole dependents of the deceased?
4. Relief.”



5. Though it came before Tribunal that in the Fard Peshkardgi i.e. memo related to physical search of the dead body, railway journey ticket was recovered from the police authorities, however, the same has been discarded by the Tribunal holding that in the inquest report prepared by GRP, the railway journey ticket has not been mentioned. Further reliance has been placed upon testimony of Sunil Kumar, Guard, Train No.54810. As per his testimony, he saw deceased de-boarding the train while it was in motion. Relying upon the same, Tribunal held that the deceased having lost his life due to his own negligent act, railway authorities are not liable to pay compensation.

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

7. The fact of deceased having lost his life while attempting to de-board the train, is not denied. Rather from the statement of Sunil Kumar, who was employed as Guard on the train in question, it is evident that Sayar Singh lost his life while de-boarding the train at Loharu Junction. The Tribunal held that the deceased was negligent and thus the incident cannot be termed to be 'untoward incident' as contemplated under Section 123(c)(2) read with Section 124-A of the Railways Act. This issue is no more *res integra* and has been laid to rest by the Supreme Court in '**Union of India vs. Rina Devi**', (2019) 3 SCC 572, observing as under:

“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.”

8. Thus, in absence of there being any evidence to prove that the deceased had any intention to inflict self injury, the findings recorded by the Tribunal holding that the incident in which the deceased Sayar Singh lost his life, is not an ‘untoward incident’ cannot be sustained and the same are ordered to be reversed

9. The issue regarding deceased being a *bona fide* passenger has also been answered by the Tribunal ignoring vital piece of evidence which has led to perversity in the findings. As per memo of seizure dated 12.11.2017 which is on record as Exhibit A-9, it is evident that railway ticket bearing No.73891517, dated 17.11.2017, Ex. Didwana to Loharu was recovered along with other articles like identity card, etc. from the physical search of body of deceased Sayar Singh. Merely for the reason that the authorities failed to mention about the railway ticket and other belongings in the inquest report, the seizure memo cannot be ignored. In case, the Railway



Authorities wanted to dispute seizure memo, it was incumbent upon them to examine the author thereof i.e. ASI GRP, Loharu, who prepared the same. The respondent/Railways having opted not to examine author of the seizure memo despite he being their own official, Tribunal ought to have drawn adverse inference against the railway authorities.

10. In view of above, this Court finds that the ticket having come on record and the same having been recovered from the physical search of the body of the deceased along with other belongings, Tribunal erred in ignoring the same.

11. In view of above, finding recorded by the Tribunal on issue *re: bona fide* passenger needs to be reversed.

12. As a sequel of the discussion held hereinabove, this Court holds that the deceased Sayar Singh died in an 'untoward incident' while travelling from Didwana to Loharu by passenger Train No.54810. Consequently, the appeal is allowed.

Relief:

13. The accident relates to the period post amendment of 2017 which came into effect w.e.f. 01.01.2019. Thus, the compensation payable shall be as per amended Schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990. The claimants shall be entitled for Rs.8,00,000/- along with interest @ 7.5% per annum from the date of application till the date of actual realization.



14. 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.

September 19, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No