



FAO-2287-2018 (O&amp;M)

[219] IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-2287-2018 (O&M)  
Date of Decision : 21.03.2025

Tarsem Lal and others ...Appellants

versus

Union of India ....Respondent

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Upender Prasher, Advocate  
for the appellants.

Mr. Himanshu Malik, Sr. Panel Counsel  
for the respondent-UOI.

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**PANKAJ JAIN, J. (ORAL)**

[1] The claimants are in appeal aggrieved of an order passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh dated: 22.12.2017 seeking compensation of Rs.4,00,000/- on account of death of one Smt. Sumitra Devi.

[2] The pleaded facts of the case are that on 29.07.2014, the deceased along with her relative boarded Dadar Express Train from Kurukshetra to reach Amritsar. When the train was near Dilwan Railway Station, the deceased went to the washroom and while washing hands, she accidentally fell from the train due to jerk and died on the spot.

[3] The claim was contested by the railways. It was denied that the deceased died in an untoward incident. It was further pleaded that the claimants have not come to the Tribunal with clean hands and have deliberately and intentionally concealed the material facts. The deceased



died due to her own criminal negligent act and the railway ticket shown in the *Jamatalshi* is a planted one.

[4] After hearing rival contentions, the Tribunal framed the following issues:

- “1. *Whether the deceased was a bonafide passenger of train at the time of incident?*
2. *Whether the death of the deceased has occurred in an untoward incident as defined under Section 123 (c) (2) of the Railways Act?*
3. *Whether the applicant(s) is/are the sole dependant(s) of the deceased?*
4. *Relief.*”

[5] The claim was dismissed by the Tribunal holding that the deceased was not a *bonafide* passenger nor a victim of an untoward incident. *Fard jamatalashi* shows that from the personal search of the deceased one railway ticket ex-Kurukshetra to Amritsar was recovered. It does not appeal to reason that the deceased lady was not carrying any other articles like jewellery, cash, clothes etc and was having only the railway ticket and the personal search was conducted by a person who was related to the deceased. This fact casts a serious doubt on the authenticity of the claimants. Further it was held that nothing has been proved on record that proves the journey of the deceased nor her fall from the train.

[6] Counsel for the appellants submits that the Tribunal has totally misread the evidence on record and rejected the claim of the claimants. Applicant, Pawan Kumar filed affidavit as AW-1. He was cross examined and on oath he stated that the deceased was a *bonafide* passenger.

[7] Counsel appearing for the Union of India while relying upon the DRM’s inquiry conducted by the railways submits that the Tribunal rightly



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rejected the claim of the claimants holding that there are lot of loopholes in the claim application which raised suspicion.

[8] I have heard counsel for the parties and have carefully gone through the record of the case.

[9] Section 124A deals with liability of Railways to pay compensation to the victims on account of injuries/loss of life suffered owing to untoward incidents and accidents involving Railways. The aforesaid provision came on the statute book by way of Railways Amendment Act, 28 of 1994. The same has come up for consideration before Supreme Court in the case of **Rathi Menon vs. Union of India (2001) 3 SCC 714, Union of India vs. Prabhakaran Vijaya Kumar and others, (2008) 9 SCC 527, Jameela and others vs. Union of India, 2010 AIR SC 3705, Union of India vs. Rina Devi, (2019) 3 SCC 572 and Doli Rani Saha vs. Union of India, Civil Appeal No.8605 of 2024 (Arising out of SLP (C) No.32962 of 2018).**

[10] After considering the aforesaid precedents, this Court dealt the issue elaborately in the case of **Sandeep Narula and ors versus Union of India** bearing FAO No. 2700 of 2016 and culled out the following parameters:-

*“15. In view of above, the following proposition can be culled:*

*(i) Railway is liable to pay to an injured passenger or to the dependents of a passenger killed in an untoward incident involving railways. The passenger for the purpose of Chapter XIII of the Railways Act does not necessarily mean a passenger as contemplated under Section 2(29) of the 1989 Act. Rather explanation appended to Section 124A provides that the passenger shall include:*

*a) a railway servant on duty;*



- b) *a person who has purchased a valid ticket for traveling by a train carrying passengers on any date; or*
- c) *a valid platform ticket and becomes a victim of an untoward incident.*

*The definition is inclusive. It does not exclude any category. Definition of 'passenger' as appended to Section 124A by explanation is much wider than the definition of 'passenger' as provided under Section 2(29) of the 1989 Act.*

*(ii) As per the dictum of law laid down in **Rina Devi's** case (supra), once an affidavit is filed by the claimant that the victim was traveling on a valid ticket, the initial burden to prove that the victim was a bona fide passenger stands discharged. Thereafter, it is for the Railways to rebut the same to prove otherwise.*

*(iii) Untoward incident is different from accident. 'Untoward incident' is defined under Section 123(c) of the 1989 Act. Under five situations as contemplated under proviso appended to Section 124A, the Railway Administration may be absolved of its liability. Any other situation that does not fall within the ambit of proviso appended to Section 124-A, invites liability of Railway Administration to pay compensation. The compensation needs to be paid as per the mandate of statute as interpreted by Supreme Court in **Rina Devi's case (supra)**.*

*(iv) The liability of the Railway Administration is based on the 'principle of strict liability'. Plea of 'no fault of railways' or 'negligence of the victim' is not available to the Railway Administration."*

[11] In the present case, the claimant filed an affidavit specifically claiming that his mother was travelling as a *bonafide* passenger. The evidence adduced by the claimant has gone un rebutted. In terms of the ratio of law laid down by Apex Court in **Rina Devi's case (supra)**, the Tribunal ought not have returned the finding that the deceased was not a *bonafide* passenger.



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[12] In view of above, the findings recorded by the Tribunal need to be reversed.

[13] There is no evidence on record to prove any intentional act on part of the deceased which led to the loss of her life. The incident does not fall within the five exceptions as contemplated under the proviso appended to Section 124A of the 1989 Act. Thus, the respondent/railways cannot be absolved of its liability and is required to pay compensation.

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

[15] The accident relates to the year 2014. Thus, the compensation awarded to the appellants shall be as per Part 1 of the Schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 prior to amendment dated 1<sup>st</sup> of January 2017 i.e Rs.4,00,000/- with interest @ 9% per annum from the date of accident till actual realization or an amount of Rs.8,00,000/- whichever is higher.

**(PANKAJ JAIN)**  
**JUDGE**

21.03.2025

'R. Sharma'

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