



Priyanka Devi & ors.

..... Appellants

versus

Union of India

..... Respondent

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

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Present :- Mr. Nikunj Dhawan, Advocate  
for the appellants.  
(through V.C.)

Mr. Bharat Bhushan Sharma, Sr. Panel Counsel  
for the respondent.

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

**CM-15913-CII-2018**

This is an application seeking condonation of delay of 7 days in filing the present appeal.

For the reasons recorded in the application, this Court is satisfied that the applicants-appellants have shown sufficient cause to condone the delay in filing the appeal.

Application is allowed. Delay of 7 days in filing the appeal is condoned.

**Main case**

1 Claimants are in appeal aggrieved of the award passed by Railways Claims Tribunal, Chandigarh Bench, Chandigarh dated 29.01.2018 whereby original application filed by the claimants bearing No.OA-



II/128/2015 seeking compensation of R.8.00 lakhs on account of death of Pardeep Singh in an untoward incident stands dismissed.

2 As per the claimants on 12.08.2014 deceased informed them that he required certain documents and was thus planning to come home that night. He would return back to Hisar immediately for attending his duties. In the morning of 13.08.2014 dead body of a male was recovered by railway staff near railway station Hisar. On 15.08.2014 Chiranji Lal, Driver of Train bearing No.14520 Kissan Express found a broken mobile phone from the outer side of Sat Road Railway station. He made call from the same. The phone was picked by the BSF person who told him that the phone belongs to Pardeep Singh, the deceased. The claimants claimed that the deceased having died in an untoward incident while travelling to Rewari, the claimants are entitled for compensation.

3 The claim was contested by the respondent. It was denied that the deceased died in an untoward incident as contemplated under the Railways Act, 1989 (for short 'the 1989 Act'). It was further pleaded that the deceased was not a bonafide passenger, as no railway ticket or other travel documents were recovered during his jamatalashi.

4 On the basis of the pleadings following issues were framed :-

*“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 dependent(s) of the deceased?*



*4. Relief.”*

5 Tribunal decided both the issues against the claimants. Tribunal relied upon fard jamatalashi, as per which during search railway authorities found some cash amount and other articles, but ticket was not recovered to hold that the claimants have not been able to prove that the deceased was a bona-fide passenger. Tribunal further held that as per the claimants the deceased met with a motor vehicular accident in Rewari in the year 2009. Thereafter he was undergoing treatment for psychiatric ailment. On 15.02.2012 Board of Doctors at Psychiatric Disease Hospital, GMC/ Jammu opined that on the basis of the history of the deceased, the deceased can perform his duties but without arms and ammunition. In the aforesaid circumstances, the Tribunal held that the possibility of the deceased becoming victim of the incident due to his own act and conduct cannot be rule out.

6 Learned counsel for the appellants has assailed the findings recorded by the Tribunal and submits that it is evident from the record that the deceased lost a leg along with trouser in a railway accident. Non recovery of ticket can be on account of missing of body part of the deceased including a part of trouser. He further submits that the fact that the mobile of the deceased in broken condition was found by one Chiranji Lal, Driver of Train Kissan Express on 15.08.2014 from outer side of Sat Road Railway Station goes to show that jamatalashi is not reliable. It has been further contended that even though the deceased had a medical history, but at the same time it cannot be denied that he was successfully discharging his



duties. In these circumstances the Tribunal ought not have returned the finding against the claimants on issue No.2 merely on the basis of surmises.

7 *Per contra*, learned counsel for the respondent has supported the award passed by the Tribunal claiming that all the valuable articles including cash were recovered in jamatalashi. Thus there is no reason as to why the ticket could go missing. The claimants having failed to prove that the deceased was a bonafide passenger, no fault can be found with the findings recorded by the Tribunal.

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

9 As per record at the time the body was recovered, right leg along with part of the trouser was missing. Thus, it can be safely presumed that ticket may have been lost on account of the said fact. Deceased was working in disciplined forces and presumption is more in favour of deceased travelling on a valid ticket rather than him travelling without ticket.

10 So far as the issue of deceased having lost his life in an untoward incident is concerned, this Court finds that the Tribunal erred in recording conjecture to non-suit the claimants. In the year 2012, the Board of Doctors opined that the deceased can perform his duties without arms and ammunition under supervision and downgraded him from medical category SHAPE I to medical category S3. From 2012 till 2014 i.e. the date of accident there is no evidence that the ailment of the deceased worsened. Even though he was kept in medical category S3, but it cannot be denied that he was still found fit to work and was still performing his duties.



11 In view of above, without there being any evidence that very injuries suffered by the deceased were self inflicted, the fall from the train being not in dispute, this Court can safely infer that the deceased died in an untoward incident as contemplated under Section 124-A of the 1989 Act. Reference can be made to the following observations made by Supreme Court in the case of ***Union of India vs. Rina Devi, 2018 SCC Online SC 507*** wherein it has been observed 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.”*

12 In view of above, the findings recorded by the Tribunal cannot be sustained. The same are ordered to be set aside. The claim petition filed by the claimants is allowed.

13 **DATE OF ACCIDENT : 12.08.2014**

The accident relates to the period prior to the Amendment of 2017. Thus, the compensation payable shall be as per un-amended schedule appended to the Railway Accident and Untoward Incidents (Compensation) Rules 1990. Compensation of Rs.4,00,000 along with interest @9% per annum or Rs.8,00,000 whichever is higher, is payable for the period from the date of application till the date of actual realization.



14 The railway authorities are granted 8 weeks to deposit the awarded compensation with the Tribunal. The Tribunal shall disburse the same to the claimants as per law. In case the railways failed to deposit the amount within a period of 8 weeks as stipulated hereinabove, the claimants shall be entitled for interest @9% per annum for the delayed period.

04.04.2025

*Pooja Sharma-I*

**( PANKAJ JAIN )  
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No