



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

227

FAO-662-2019

Date of decision : 12.09.2025

**Jatan and another****..... Appellants****versus****Union of India****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Atul Bhatia, Advocate  
for the appellants.

Mr. Shivoy Dhir, Senior Panel Counsel with  
Ms. Bharti, Advocate  
for the respondent-UOI.

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

1. Challenge is to the award dated 28.09.2018 passed by RCT, Chandigarh, whereby the claim petition filed by the claimants seeking compensation on account of death of their son namely, Aakash while travelling as a bonafide passenger in an untoward incident dated 01.02.2016 stands dismissed.

2. As per the claimants, on 01.02.2016, while deceased was travelling in Agra passenger train, he accidentally fell at KM No.1492/2 in Aaswati railway station yard due to sudden jerk. The deceased was travelling on a valid ticket. He having died after falling from the train in an untoward incident, the claimants are entitled for compensation.

3. The claim petition was opposed by the respondent authorities. It was denied that the deceased was travelling on a valid journey ticket. It is further claimed that since guard of the train did not



see the deceased falling down from the train, he cannot be said to have died in an untoward incident. Tribunal while deciding the claim petition, disbelieved the testimony of Sunder @ Bhola, holding that he having failed to prove that he @ Bhola as mentioned in the police record as co-passenger to the deceased is the same person, he cannot be held to be Sunder @ Bhola. While deciding issue regarding untoward incident, Tribunal held that the injuries were sustained by the deceased on account of his own negligence in an attempt to de-board/ board moving train, which was running approximately at the speed of 25-30 km per hour. Tribunal accordingly dismissed the claim application filed by the appellants.

4. Counsel for the appellants has assailed the finding recorded by the Tribunal. He refers to the testimony of Jatan the father, who appeared as AW1, to submit that father having stated on oath that the deceased was travelling on a valid ticket, onus shifted upon the railway authorities to rebut the same. The testimony of Jatan having remained unrebutted, finding recorded by the Tribunal with respect to the deceased not being a bonafide passenger, being in the teeth of ratio of law laid down in the case of ***Union of India vs. Rina Devi, 2019 (3) SCC 572***, cannot be sustained. He submits that co-passenger Bhola @ Sundar appeared as AW2. However, his testimony has been discarded by the Tribunal on flimsy grounds. AW2 Bhola @ Sundar, in his affidavit, specifically testified that he was accompanying Aakash-deceased at the time he fell down from the train. Thus, his testimony ought not have been disbelieved. He further refers to the inquiry conducted by DRM, which itself records that Aakash-deceased died



while de-boarding the train.

5. *Per contra*, Mr. Dhir submits that an attempt was made by the claimants to introduce Sundar by the name of Bhola. The actual co-passenger, i.e. Bhola has opted not to appear in the witness box. No fault can be found with the findings recorded by the Tribunal.

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

7. Even for the sake of arguments, if the testimony of Bhola @ Sundar is discarded, there is ample evidence on record to prove that the deceased was a bonafide passenger in view of the ratio of law laid down in *Rina Devi's case (supra)*. The testimony of AW-1, father of the deceased remained unrebutted and nothing has been brought on record to dislodge his assertion that the deceased was travelling on a valid ticket. The affidavit of AW-2 though was not subjected to cross examination by stepping into the witness box, yet it supports the claim of the claimants. The Tribunal's conclusion that the deceased attempted to de-board the train is not based on any cogent evidence but merely on conjectures.

8. The Tribunal erred in discarding the claim on the ground that the guard of the railways had not seen the deceased falling down from the train. An accident involving railways is not always seen by the railway officials nor does it constitute as a pre-requisite to establish an 'untoward incident'.

9. The deceased having sustained fatal injuries while travelling as a bonafide passenger, the claimants are entitled for compensation.



10. The accident relates to the year 2016. Thus, the compensation shall be as per part I of the Schedule appended to the Railway Accident & Untoward Incidents (Compensation) Rules. Compensation of Rs.4,00,000/- along with interest @ 9% per annum or Rs.8,00,000/- without interest whichever is higher, is payable for the period from the date of application till the date of actual realization.

11. 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.

12. Accordingly, the present appeal is disposed off.

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

**12.09.2025**

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No