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

FAO-3706-2019

Date of decision : 14.02.2025

RADHIYA DEVI AND OTHERS

....Appellants

Versus

UNION OF INDIA

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Ms. Alisha Arora, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Appeal is directed against award dated 18.03.2019 passed by
Railway Claims Tribunal, Chandigarh Bench.

2. Application was moved under Section 16 of the Railway Claims
Tribunal Act, 1987 read with Section 124-A of the Railways Act seeking
compensation on account of death of Raj Kumar Das in an untoward
incident dated 02.07.2017. It was claimed that deceased along with Shivji
Dass tried to board train bearing No.15209 Jansewa Express which was
going from Amritsar to Darbhanga. However, while boarding train deceased
Raj Kumar Das fell down and suffered injures and died on the spot.



3. The claim petition was resisted by the respondents claiming that the deceased was to board train No.15212 and died while boarding train No.15209 which was up to Amritsar only and thus he cannot be held to be a *bona fide* passenger *viz-a-viz* train No.15209. Thus, the claim petition was not maintainable.

4. On the basis of the rival pleadings, 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)(c) read with Section 124-A of the Railways Act?
3. Whether the applicants are the sole dependants of the deceased?
4. Relief.”

5. There is no dispute w.r.t. the deceased being in possession of a valid railway ticket to travel from Amritsar to Darbhanga. Presence of Shivji Dass, the co-passenger who appeared and testified as AW-2 before the Tribunal, is also not denied. The Tribunal has non-suited the claimants for the reason that the deceased was to board train bearing No.15212 and not 15209 and thus he cannot be held to be *bona fide* passenger w.r.t. train No.15209.

6. In the considered opinion of this Court, Tribunal patently erred in ignoring the testimony of AW-2 Shivji Das, who has been proved to be present on the spot. In his testimony, he has explained that after purchasing



ticket when inquiry was made w.r.t. train No.15212 i.e. Jannayak Express, they were told that train No.15209 i.e. Jansewa Express is arriving on platform No.3 and it is the same train that will depart for Darbhanga under the name of Jannayak Express bearing No.15212. Thus, in order to board the said train first and secure comfortable seats, the untoward incident occurred.

7. There is no evidence w.r.t. intention on part of the deceased Raj Kumar Das to self inflict any injury.

8. Thus, in view of above, this Court finds that the Tribunal erred in returning findings on issues No.1 and 2 against the appellants/claimants. Consequently, the same are ordered to be reversed.

Relief

9. The accident is dated 02.07.2017. The claim has to be governed by amended schedule appended to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. Resultantly, the claimants are entitled to compensation of Rs.8.00 lacs along with interest @ 9% per annum from the date of filing of claim application till the date of actual realization.

10. In view of above, instant appeal is allowed.

February 14, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No