



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

FAO-1155-2018

Date of decision : 25.04.2025

SANDEEP KUMAR

....Appellant

Versus

UNION OF INDIA

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Ms. Sangeeta Srivastava, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Challenge is to the order dated 22.05.2017 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby the claim petition filed by the claimant, stands rejected.

2. Claimant suffered injuries while boarding train Ekta Express at Railway Station Chandigarh.

3. There is no dispute w.r.t. the claimant being a *bona fide* passenger and travelling on a valid ticket. Tribunal non-suited claimant on the basis of statement made by RW1 Jai Singh an eye-witness. As per Jai Singh, claimant suffered injury while trying to board the train hurriedly even before it had actually halted on the station.



4. In the considered opinion of this Court, the Tribunal erred in holding that the claimant himself was negligent and thus the incident cannot be held to be an untoward incident. Reference can be made to the following observations made by Supreme Court in ‘**Union of India vs. Rina Devi**’, (2019) 3 SCC 572 :

“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.”

5. In view thereof, the finding recorded by the Tribunal on issue No.2 deserves to be reversed. Accordingly, it is held that the claimant suffered injuries in an untoward incident as a *bona fide* passenger.

6. So far as the compensation is concerned, the claimant suffered 21% permanent disability on account of injuries suffered in the aforesaid accident. Disability certificate issued by PGIMER, Chandigarh has been proved on record as A/7. As per the same, the claimant suffered locomotor disability of left upper limb and also suffered Post Traumatic Deformity.



7. In view thereof, keeping in view that the injury suffered is non-schedule, this Court deems it appropriate to grant compensation of Rs.1.00 lac to the claimant. He shall also be entitled for interest @ 9% per annum from the date of accident till the date of actual realization.

8. Appeal is accordingly disposed off.

9. Pending application(s), if any, shall also stand disposed off.

April 25, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No