



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment reserved on: 26 March 2025

Judgment pronounced on: 02 April 2025

+ FAO 240/2022

SUDHIR YADAV & ORS Appellants

Through: Ms. Shailja Kulshreshtha, Adv.

versus

UNION OF INDIA Respondent

Through: Mr. Avnish Singh, SPC with

Mr. Vishal Kumar Yadav &

Mr. Anant Yadav, Advs.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This judgment shall decide the present appeal filed by the appellants/claimants under Section 23¹ of the Railway Claims Tribunal Act, 1987² assailing the Impugned Order dated 03.01.2022 passed by the Railway Claims Tribunal, Principal Bench, Delhi³, whereby the claim application OA/II(u)/DLI/263/2021, titled "Sudhir Yadav & Others vs. Union of India", filed under Section 16 read with Section 13 (1A) of the RCT Act, was dismissed.

FACTUAL BACKGROUND

¹ 23. Appeals.—(1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5of1908) or in any other law, an appeal shall lie from every order, not being an interlocutory order, of the Claims Tribunal, to the High Court having jurisdiction over the place where the Bench is located.

(2) No appeal shall lie from an order passed by the Claims Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the order appealed against.

²RCT Act

³ Learned RCT



2. Briefly stated, it was the case of the appellants/claimants that on 16.16.2019, Amarnath Yadav [hereinafter referred as “**the deceased**”] along with his wife Vidhyawati Devi, son Sudhir Yadav, daughter-in-law Vimlesh Yadav and grandson Naitik boarded the Kasganj Farrukhabad Express, train no.15042, to travel from Kasganj Junction to Farrukhabad Junction on a reserved ticket bearing Nos. 67923422 and 67923423.

3. It was claimed that the train was overcrowded at the time and upon reaching Ganjdundwara railway station, the deceased proceeded to use the toilet in the coach but since the passage leading to the toilet was blocked by some cartons, preventing access, his father due to urgent physiological needs, alighted from the train at Ganjdundwara railway station to relieve himself. It was claimed that unaware of the short duration of the train’s stoppage, the deceased remained outside the coach when the train resumed movement, and in an attempt to re-board the train, he was unable to enter the coach due to the crowd. As a result, his hand slipped, and he fell off the train, a short distance from Ganjdundwara railway station, sustaining fatal injuries.

4. Upon discovering the incident, the appellants disembarked at the next station, Patiali, and attempted to report the accident to the railway staff. The appellants could locate only one railway staff member, who expressed his inability to assist. After waiting for some time, the appellants took a returning train back to Ganjdundwara railway station. It was claimed that upon arrival at Ganjdundwara railway station, the appellants reported the incident to the Police Post



GRP⁴ and informed Head Constable Satya Prakash, RPF⁵, who subsequently dispatched three GRP constables to accompany the appellant to the site of the accident. Upon reaching the spot, the body of the deceased was discovered.

5. With the assistance of his nephew, the appellant transported his father's body to the Government CHC⁶ Hospital, Ganjdundwara, at approximately 2:45 a.m., where he was declared dead. Based on the appellant's narration, the CHC Hospital prepared a memo but erroneously recorded the cause of death as "*a road accident*". This error was subsequently corrected by striking off "road" and inserting "rail" as the cause of the accident. The Medical Officer authenticated the correction by signing the memo, which was subsequently handed over to Sr. Constable Prince for submission to the Ganjdundwara Police Station.

6. Upon receiving the memo, the SHO, Ganjdundwara Police Station, recorded the incident in the GD⁷ No.009 at 3:33 a.m., but similarly mistakenly recorded the accident as "*a road accident*". Thereafter, Sub-Inspector Shusheel Kumar, along with two constables, was directed to the accident site for further investigation.

7. On 17.06.2019, the police conducted an Investigation Report (Police Document No. 211) under Section 174 of the Code of Criminal Procedure, 1973 (*hereinafter referred as "CrPC"*), wherein the cause of death was officially recorded as "due to injuries sustained

⁴Government Railway Police.

⁵ Railway Protection Force

⁶ Community Health Centre

⁷ General Diary



from falling off the train." Subsequently, the police initiated the Panchnama and post-mortem proceedings on the same day. The Sub-Inspector confirmed in the Panchnama that his findings aligned with the opinion of the Panchas, concluding that the deceased had died due to injuries sustained after falling from the train. The body of the deceased was thereafter handed over to the appellant and his family for cremation.

8. The appellants subsequently filed a Claim Application before the learned RCT seeking compensation of ₹8,00,000/-.

PROCEEDINGS BEFORE THE RCT AND IMPUGNED ORDER:

9. The respondent/Union of India contested the claim petition and raised objections regarding the bona fides of the passenger on the ground that no journey ticket was recovered during the Panchayatnama, and the claimants/appellants failed to provide any explanation as to why the said journey tickets were not handed over to the police authorities.

10. Acknowledging that the journey tickets were found to be genuine in the DRM⁸ report, it was however asserted that the Panchayatnama was prepared prior to the receipt of the Memo from CHC and the subsequent entry in the GD; and the mention of a road accident in the GD, the subsequent correction in the Memo from CHC to the PSI, Ganjdundwara, and the application submitted by one of the applicants on 21.07.2019 requesting correction in the FIR, coupled with the absence of any reference to the journey tickets in the



Panchayatnama and the filing of the original tickets only with the claim application, collectively raise serious doubts regarding the veracity of the averments made in the claim application.

11. On the basis of the preceding observations, the learned RCT dismissed the claim application of the appellant in terms of Rule 16 of the Railway Claims Tribunal (Procedure) Rules, 1989.

12. The impugned order has been challenged, inter alia, on the grounds that the deceased was a bona fide passenger, as the learned RCT itself acknowledged the genuineness of the train ticket as evidenced by the DRM report. Furthermore, the investigation reports explicitly indicate that the cause of death was "due to injuries sustained from falling from the train." The appellants also assert that the deceased falls within the ambit of an "untoward incident" as defined under Section 123(c)(2) read with Section 124(A) of the Railways Act, 1989, an aspect which the learned RCT failed to duly consider while delivering the impugned order. Instead, the learned RCT relied solely on mere doubts to dismiss the claim for compensation. Therefore, it is prayed that the impugned order be set aside and the claim for compensation be allowed.

ANALYSIS & DECISION:

13. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have also perused the relevant record of the case.

⁸ Divisional Railway Manager



14. First things first, it would be apposite to re-produce the reasons that prevailed in the mind of the learned Presiding Officer, RCT in rejecting the claims of the appellants/claimants on the Issues⁹ framed:

“Since these issues are interrelated they have been dealt together for convenience. The applicants have filed two journey ticket in original claiming that 1st one was pertaining to his deceased father and mother (Senior Citizens) and the other was pertaining to Sudhir Yadav and his family. Respondent have disputed the bona fide of the passenger on the plea that no journey ticket was recovered during Panchayatnama. On perusal of the Panchayatnama we find that there is no mention of recovery of any journey ticket. Further, it is noted from the statements of widow Vidhyawati Yadav given to the Investigating Officer on 22.08.2019 that the journey ticket of deceased was with Sudhir Yadav. The claimants have not brought out why the said journey tickets were not handed over to the Civil Police Officials. From DRM Report we find that the said journey ticket has been got verified from Commercial Superintendent/NER/Kasganj and have been found genuine with time of issue at 21:03 hours from window no. 3 of Kasganj Station.

From the general diary no. 009 of PS Ganjdundwara dated 17.06.2019 recorded at 03:33 hours it is noted that a Memo was brought by someone named Prince (S/C) of CHC/ Ganjdundwara mentioning that at 02:45 hours a person named Amarnath Yadav son of Pate Singh R/o Gular Sarai Bodla, Agra aged 73 years was brought dead by his son Sudhir Yadav and according to him **the incident occurred in a road accident before Chiraula Fatak**. From the copy of the said Memo vide Ex. A2 it is noted that the same has mention of **road accident subsequently corrected to rail accident** duly attested by someone. We further note that on 21.07.2019 Santosh Yadav approached In-charge/ Police Station Ganjdundwara requesting correction in the FIR. A copy of the said letter is filed vide Ex. A5. On the said application Sub-Inspector, Sunil Kumar Yadav of PS Ganjdundwara has endorsed that the

⁹ (i) Whether the deceased was a bona fide passenger in the train in question at the time of incident?

(ii) Whether there was any untoward incident as is defined under the Provisions of Section 123(c) read with Sec 124 (A) of Railways Act, 1989?

(iii) Whether the applicant(s) is/are dependant(s) of the deceased under the Provisions of Section 123 (b) of the Railways Act, 1989?

(iv) Whether the applicant(s) is/are entitled for any compensation and interest as prayed for in the application?



death occurred due to fall from train near Chiraula Fatak which was followed by Panchayatnama and Post mortem. From the Guard Memo filed along with the statement of guard of train no. 15042 in the DRM Report it is noted that train no. 15042 had left Kasgunj at 21:20 hours and reached Ganjdundwara at 22:22 hours and after stoppage of 2 minutes left at 22:24 hours. It reached the next station Patiali at 22:08 hours. Counsel for applicant referred to statement of widow to IO as filed in DRM Report from where it is noted that after the incident family members got down at Patiali Station and came back to Ganjdundwara by an Up direction train and thereafter at Ganjdundwara her son Sudhir Yadav informed the GRP Officials who conducted a search and thereafter with the help of GRP Officials body was searched and his son took the body to CHC in her sister's son's vehicle. Counsel for Respondent raised an objection during argument that if the body was searched by GRP Officials why was further proceeding not conducted by them and why was there a necessity to the Medical Officer to send a Memo to Civil Officials. No evidence has been brought before us in this regard by the counsel for the applicant. Further to that we find that the Panchayatnama has been made prior to receipt of Memo from CHC and preparation of GD. Mention of road accident in the GD, correction of the same in the Memo from CHC to PS/Ganjdundwara and subsequent application by one of the applicants to PS/Ganjdundwara on 21.07.2019 requesting correction in the FIR along with no mention of journey ticket in the Panchayatnama and filing of original tickets with the claim application raises serious doubts about the averments made in the claim application. We therefore decide both the issues of bona fide and untoward incident against the applicants and in favour of the respondent.

Having decided issue no. 1 and 2 against the applicants they are not entitled for any compensation and therefore issue no. 3 loses its significance and have not been discussed.”

15. On a careful perusal of the aforesaid reasons vis-a vis on appreciation of oral and documentary evidence on the record, this Court has no hesitation in holding that the impugned judgment dated 03.01.2022 cannot be sustained in law, for not only on account of perverse finding but also for not applying the legal principles correctly.



16. The testimony of AW-1, who was the main witness to the manner in which incident occurred cannot be discarded as untruthful or unreliable. He was very categorical that on the fateful day he was travelling with his parents, wife and son and his version that there were placed certain cartons in front of the toilet thereby, blocking access was not challenged at all in his cross examination. There was no report from the Railways that the said version was verified and found to be incorrect.

17. It is categorical in the testimony of AW-1 that, his father went down to answer the call of the nature and he just could not get back in time as the train slightly moved, he got hold of the window grill and while he attempted to bring him inside the coach, his father lost his grip over the grill and fell down. He testified that the train kept on running and he tried to pull down the chain/emergency lock but it did not work, and therefore, he got down at the next station and came back to Ganjdundwara by another train and informed the Station Master which information was recorded in the certified copy of Daily Diary/RPF/Post Kasganj dated 17.06.2019.

18. Furthermore, it is brought on the record that the Investigating Officer/ASI Gyanendra Singh, in his report under Section 174 of Cr.P.C., dated 17.06.2019, clearly indicated that the reasons for the death of the person concerned was due to injuries sustained after falling from the train. Even the Report of the Divisional Inspector of the Railways, on 26.08.2019, recorded the fact that the deceased had deboarded the platform instead of using the toilet in the coach and attempted to catch moving train and fell out.



19. The crux of the matter is that it cannot be questioned that the deceased passenger died for being involved in an ‘untoward incident’, as defined under Section 123(c)(2) of the Railways Act, 1989. Mere fact that the deceased attempted to board a moving train would not amount to the deceased causing self-inflicted injuries upon himself. Reference can be invited to decision by the Supreme Court in the case of **Union of India v. Rine Devi**¹⁰, holding that a death or injury in the course of boarding or deboarding a train will be an ‘untoward incident’, entitling a victim to compensation and will not fall under the proviso to Section 124-A¹¹ of the Railways Act, 1989, merely on the plea of negligence of the victim as a contributory factor.

20. Without further ado on a careful perusal of the record, there is no denying the fact that the deceased was a bona fide passenger. It is an admitted fact that the DRM Report had confirmed the tickets

¹⁰ (2019) 3 SCC 572

¹¹ 124A. **Compensation on account of untoward incidents.** —When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only of loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

- (a) suicide or attempted suicide by him;
- (b) self-inflicted injury;
- (c) his own criminal act;
- (d) any act committed by him in a state of intoxication or insanity;
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.—For the purpose of this section, “passenger” includes—

- (i) a railway servant on duty; and
- (ii) a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.]



produced by the son as genuine. The reason accorded by the learned RCT that the Panchayatnama did not mention anything about the recovery of general ticket is flawed, since, in the backdrop that the family had lost an elder member, no one could expect them to behave rationally during such time of extreme crises. It must have been quite emotionally exhausting for the family including the son of the deceased. He had not only handed over the rail tickets which were later verified but also, on his complaint, the contents of the FIR were also corrected by the concerned police officials in the ordinary course of discharge of their public duties.

21. In view of the foregoing discussions, we find that the impugned order dated 03.01.2022 is patently perverse and contrary to the well-established principles. The same is hereby set aside.

22. Accordingly, the appellants/claimants are hereby granted a statutory compensation of ₹8 lakhs with interest at the rate of 12% per annum from the date of the accident i.e. 17.06.2019 till realization.

DHARMESH SHARMA, J.

APRIL 02, 2025

Ch