



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

% **Judgment reserved on : 21 April 2025**

Judgment pronounced on: 06 May 2025

+ **FAO 107/2021**

SHRI BIJAY SINGH & ANR. Appellants

Through: Mr. Brijballabh Tiwari, Adv.

versus

UNION OF INDIA Respondent

**Through: Ms. Arunima Dwivedi, CGSC
with Ms. Kritika Sharma, Mr.
Sainyam Bhardwaj, Mr. R.
Pawar and Mr. Aarav Gupta,
Adv.**

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 02.03.2020 passed by the Railway Claims Tribunal, Principal Bench, Delhi³, whereby the claim application OA/II(u)/GZB/164/2016, titled "Sh.

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 RCT



Bijay Singh & Anr. vs. Union of India”, filed under Section 16 read with Section 13 (1A) of the RCT Act, was dismissed.

FACTUAL BACKGROUND

2. Briefly stated, it was the case of the appellants/claimants that on 29.05.2016, Arvind Singh (deceased herein) aged 29 years, had left his residence on 29.05.2016 to attend a job interview at Mahindra Company, New Delhi. He commenced his journey from Agra Cantt. railway station to New Delhi at approximately 12:24 AM on the night of 29.05.2016. Following the interview, on 30.05.2016, the deceased boarded the Prayagraj Express (Train No. 12418) from New Delhi, intending to travel to his paternal aunt's residence in Hathras. It is further contended that the deceased had apprised his father, the appellant herein, of his intended travel plans during a telephonic conversation. The appellants have also asserted that the deceased was in possession of a valid travel ticket no.61858180 for the journey from New Delhi to Aligarh.

3. As the train approached pole no. 1332/00 near the home signal of Mehraval Railway Station, the deceased, due to a sudden jerk and the excessive overcrowding in the compartment, accidentally fell from the moving train. The fall resulted in grievous injuries, leading to his death on the spot. Owing to the nature of the incident, the travel ticket in possession of the deceased was lost. Subsequently, the Government Railway Police (GRP), Aligarh, informed the appellants about the tragic occurrence. Following this, a post-mortem examination of the deceased was duly conducted.



4. The appellant subsequently filed a Claim Application before the Railway Claims Tribunal, Principal Bench, Delhi, seeking compensation of ₹10,00,000/-.

PROCEEDINGS BEFORE THE RCT AND IMPUGNED ORDER:

5. During the course of proceedings before the learned RCT, the counsel for the respondent raised objections concerning the bona fides of the deceased as a passenger. It was contended that there was no eyewitness to substantiate the claim that the deceased had fallen from the train. Furthermore, it was argued that the circumstances of the case indicate that the deceased may have been the victim of his own criminal act or may have sustained self-inflicted injuries. The respondent further submitted that the deceased was neither a bona fide passenger of the said train nor had he fallen from it, and therefore, the incident does not qualify as an "untoward incident" within the meaning of Section 123(c), read with Section 124-A of the Railways Act.

6. On the completion of the pleadings, the learned RCT framed the following issues on 11.01.2018:

- I. Whether the deceased was a bonafide passenger in the train in question at the time of the incident?
- II. Whether there was any untoward incident as is defined under the provisions of Section 123(c) of the Railways Act, 1989?
- III. Whether the applicants are dependents of the deceased?
- IV. Whether the applicants are entitled for any relief and interest as prayed for in the application?
- V. Relief, if any?

7. Issues No. 1,2,3,4&5 were adjudicated in favour of the respondent. The learned RCT observed that there was no eyewitness



account to corroborate the incident. It was further noted that the scheduled departure time of the train from New Delhi was 21:20 hours, with an expected arrival at Aligarh Junction at approximately 23:30 hours. This timeline would suggest that the incident, if it occurred, must have taken place prior to 23:30 hours on 30.05.2016. However, the first official intimation regarding the discovery of the deceased's body was recorded only at 06:20 hours on 31.05.2016. The learned RCT found this delay in reporting to be particularly surprising, given that the Delhi–Howrah route is one of the busiest railway corridors in the country. Additionally, the post-mortem examination of the deceased was conducted between 15:55 and 16:15 hours on 31.05.2016, and the probable time of death was recorded as approximately one-fourth to one-half of a day prior. This estimated time of death suggested a significant lapse of several hours after the train would have passed the alleged location, thereby the claim petition was dismissed by the learned RCT.

8. The impugned order has been assailed, inter alia, on the grounds that the deceased was a bona fide passenger, a fact which finds support in the report of the Railway Department itself, wherein it is stated that the deceased was a passenger of an unidentified train. Furthermore, the post-mortem report reveals extensive crushing injuries to the entire body, including the head, thorax, abdomen, and both upper limbs, with intermingling of tissues and severance of body parts, strongly indicative of a fall from a moving train. Additionally, the panchayatnama explicitly records that “*mritak Arvind Singh ki mritu kisi train se cut kar aai choto ke karan parateet hoti hai*”. These



vital aspects were not given due consideration by the learned RCT, which proceeded to dismiss the claim based solely on conjecture and unsubstantiated doubts. Therefore, it is prayed by the appellants that the impugned order be set aside and the claim for compensation be allowed.

ANALYSIS & DECISION:

9. Having heard the learned counsels for the parties and on perusal of the record, it would be apposite to reproduce the findings recorded by the learned RCT while deciding Issues No.1 and 2, which go as under:-

“Issue No. 1 & 2

7. These issues being interconnected have been simultaneously taken up together. Analysis of evidence led by respective parties is discussed as under:

7.1 There is no eye witness of this incident. As per the averments made at Para-6 of the claim petition reiterated by the claimant at Para-2 of his affidavit, the applicant's case is that the deceased boarded the train no. 12418 DN Prayagraj Express at New Delhi station and when the said train reached near KM 1332/00 of home signal of Meharawal station, he accidentally fell down. On the other hand, the respondent Railway has contended that there was no evidence for incident by the alleged train at the spot (MAUKE KI GADI KA KOI SAKSHYA NAHI HAI). In this regard, Hon'ble Supreme Court has laid down the legal position in Union of India v. Rina Devi [2018 ACJ 1441] under Para 17.4 as under:

"...Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."

Thus, now there is no ambiguity regarding onus probandi. It is on the claimant and only after he/she discharges it satisfactorily, burden will then shift to the respondent. In this case, both sides have adduced documentary evidence to support respective averments and applicant's own oral submission has been made



before this tribunal. I shall examine these to ascertain whether these documents support the applicant's case or not.

a) The applicant has asserted that the deceased boarded train no. 12418 Prayagraj Express on 30.05.16. The scheduled departure time of this train from New Delhi station is 21:20 hrs. and it reaches Aligarh Junction station at around 23:30 hrs. In absence of any contrary assertion or evidence, this timing is relied on. Thus, if applicant's version is to be believed, the incident should have occurred on 30.05.16 before 23:30 hrs. However, the first intimation of citing the dead body of the deceased was issued at 6:20 hrs. on 31.05.16. Delhi-Howrah route is one of the busiest routes and it is not at all convincing that the said dead body would have gone unnoticed by any train driver running behind the alleged train.

b) The assertion of alleged travel by the said train is contradicted by the probable time recorded in the post-mortem report. The post-mortem was conducted at 3:55 pm to 4:15 pm on 31.05.16 and the probable time of death was recorded as "about (1/4 to 1/2) one fourth to half day". Even if the outer limit of this probable time is taken, the approximate time of death of the deceased should be around 4 am of 31.05.16 i.e., many hours later than the alleged train passing through the spot.

c) It is significant to note that according to the memo of Dy.SS, Aligarh, the dead body was found within UP Home signal ("MEHRAWAL STATION PAR UP HOME SIGNAL KE ANDAR KM 1332/00 PAR EK VYAKTI KATA PADA HAI"). The narration at page-2 of the panchanama also stated that "UP LINE KE KINARE DOWN LINE KE BAHAR KI TARAF EK YUVAK KA SHAV KSHAT VIKSHAT HALAT ME KATA PADA HAI". It is not probable that a body falling from a DOWN train would reach by the side of UP line in such a mutilated condition.

d) The opinion of panchayattdars was did not mention any fall from train as it only recorded that "MRITAK ARVIND SINGH KI MRITYU KISI TRAIN SE KAT KAR AAYI CHHOTO KE KARAN PRATEET HOTI HAI".

e) The post-mortem report also found that the body was grossly mutilated with whole body having crush injury. It was also found that "Intermingling of tissues so that they cannot be identified separately." Severity and nature of these injuries do not suggest any fall from train.



The clinching evidence of SS memo towards finding the dead body inside “UP Home signal”, panchanama narrating the body lying by the side of UP line and postmortem report noting crush injuries all over the body read with the approximate time of death recorded by the doctor lead me to form a definite opinion that the deceased did not fall from the train no. 12418 DN Prayagraj Express as alleged by the claimant. The father and AW-1 was not an eye witness and no evidence has been led by the applicant to prove that the deceased actually boarded the alleged train at New Delhi. In view of this, the applicant has not been successful to discharge his initial burden as per the legal position well settled by Hon’ble Supreme Court in Union of India v Rina Devi [2018 (3) ACJ 1441]. On the other hand, according to the memo of the Keyman Teekam Chandra dated 31.05.16, it was clearly recorded that “KM 1332 ME UP LINE ME EK ADAMI KAT GAYA HAI.” Hence, the claim of the applicants has been successfully rebutted by the respondent side through contrary evidence.

7.2 Once it has been proved that the deceased did not fall from the said train, it is not necessary to discuss the bona fide of the deceased as a railway passenger. However, since applicant has annexed an original journey ticket of the previous journey allegedly undertaken by the deceased, I find it appropriate to discuss this aspect as well. During her cross-examination, AW-1 stated that the said previous journey ticket was found from the belongings along with other items of the deceased. He also admitted that panchanama proceedings were conducted in his presence. In panchanama itself it has been stated that the dead body was on the UP line. No evidence has been led for purchase of the ticket or boarding the said Down train by the deceased at New Delhi station. Hence, I am not inclined to accept that the deceased was a passenger of the alleged train. I also hold that the deceased was not in possession of a valid ticket at the relevant time.

8. On the basis of facts and circumstances of this case as discussed above and preponderance of evidence on record, I have come to the conclusion that the deceased was neither a passenger of the alleged train nor did he fall from the said train. Accordingly, the incident is not covered under “untoward incident” as defined under Section 123(c)(2) read with Section 124A of the Railways Act, 1989. Hence, issue nos. 1 and 2 taken together are decided against the applicant.”

10. At the outset, upon an examination of the aforementioned facts vis-à-vis on appreciation of the evidence led on the record, it becomes



apparent that the applicants/claimants have failed to produce any conclusive evidence establishing that the deceased was a bona fide passenger on the train in question. It is manifest that the appellants/claimants have failed to produced any conclusive evidence that the deceased was travelling in Prayagraj Express (Train No. 12418) from New Delhi in the evening on 30.05.2016.

11. It is difficult to displace the findings recorded by the learned RCT that the Train had departed at 21.20 hours from New Delhi and was expected to arrive at Aligarh Junction at 23.20 hours and if the accident had occurred while travelling on the said Train, the accident must have taken placed prior to 23.30 hours. However, the dead body of deceased was found on 31.05.2016 at site No. 1332/3-5 UP line.

12. The nature of the injuries sustained by the deceased, which show severe mutilation of the body, though give rise to a mixed inference that he was either travelling in a Train or perhaps he was hit when he attempted to cross the railway lines unauthorizedly. However, merely for the fact that the deceased died involving a Train, would not bring a case within the four corners of being an 'untoward incident' within the meaning of Section 123(c)(2) of the Railways Act. The DRM report which ruled out that the deceased had fallen from a moving train and rather suffered cut injuries probably while crossing the railway lines unauthorizedly, has not been assailed in any manner and appears to be more credible.

13. At the cost of repetition, no railway ticket was found on the body of the deceased. Although one may say that having regard to the injuries suffered, railway ticket, even if purchased might have slipped



out from the front side pocket of shirt or otherwise, but then unfortunately on a busy line, as is the case in the instant matter, there were no eye witnesses to reflect as to how and in what manner the accident occurred.

14. In the aforesaid view of the matter, the present appeal is dismissed.

DHARMESH SHARMA, J.

MAY 06, 2025

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