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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 14th May, 2025**+ **FAO 56/2015****SACHIN DAHIYA & ANR**AppellantsThrough: **Mr. Anshuman Bal, Adv.**

versus

UNION OF INDIARespondent

Through:

CORAM:**HON'BLE MR. JUSTICE DHARMESH SHARMA****ORDER**% **14.05.2025****DHARMESH SHARMA, J. (ORAL)**

1. Having heard the learned counsel for the parties and upon perusal of the record, this Court proceeds to decide the present appeal under Section 23 of the Railway Claim Tribunal Act, 1987 ('**RCT Act**'), challenging the judgment-cum-award dated 15.10.2014 passed by the learned Railway Claims Tribunal ('**RCT**'), whereby the claim petition of the appellants/claimants seeking statutory compensation on account of death of their father in the railway accident, filed under Section 16 of the RCT Act, was dismissed.

2. Briefly stated, it was the case of the appellants that their father was travelling from Delhi to Sonipat in train No.1NKM on 11.03.2011, and when the train reached km.no.14/6-8 between Harsana Kalan and Sonipat, the deceased due to the heavy rush and sudden jerk fell from the running train and succumbed to his injuries on the spot. The matter was reported to GRP, Sonipat, Haryana *vide*



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DD No.14 dated 11.03.2011. It was stated the railway/journey ticket was lost at the time of accident.

3. The claim was contested by the respondent/Northern Railways on the ground that the deceased was not a *bonafide* passenger on board the train in question and that the death of the deceased did not occur as a result of any untoward incident. The RCT, based on the pleadings of the parties, framed the following issues”-

- “1) Whether the deceased Sh. Satpal @Satyapal S/o Sh. Bhim Singh was a bona fide passenger of train No. 1NKM from Delhi to Sonipat Haryana as on 11.03.2011?
- 2) Whether the death of Sh. Satpal @Satyapal was caused due to an untoward incident as defined in Section 123 (c) read with Section 124-A of the Railways Act?
- 3) Whether the applicants are the sole dependants of the deceased Sh. Satpal @ Satyapal and are entitled to get compensation as claimed?
- 4) Relief?”

4. In order to prove their case, the appellant No.1/Sh. Sachin Dahiya came in the witness box and was examined as AW1, whereas no witness was examined on behalf of the respondent. However, the DRM Report was proved as Ex.R-1. The issue came to be decided against the appellants. It would be apposite to reproduce the reasons given by the learned RCT in dismissing their claim petition, which read as under:-

- “8. The first applicant Sachin Dahiya has deposed as AW-1 and has stated in his cross examination that he was not an eye witness to this incident and cannot say as to how the incident occurred. However, the applicants have submitted the record of police investigation. As per memo of Station Master, Sonipat, Ex.AW-10, Driver of 14554 Himachal Express reported on walkie - talkie that one dead body is lying in track on down line between SNP - HNN at km 41/04 - km 41/02. This memo was issued at 4.30 hours on 11.3.11. The death report, Ex.AW-11 records death due to train accident. The post mortem report, Ex.AW-13 records all injuries are ante mortem in nature and sufficient to cause death in normal course of life and possibility of injuries by railway accident cannot



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be ruled out. The report of SHO, Ex.AW-15 records death of the deceased due to injuries caused by train in a train accident. The final report, Ex.AW-17 also records the same. The Inquest report, Ex.AW-8 concludes that in the opinion of SHO cause of death is due to railway accident. None of these documents, mention about any fall of the deceased from the train, as alleged by the applicants.

9. On the other hand, the DRM report, Ex.R-1 after inquiry has concluded that the deceased was run over while crossing the railway tracks unauthorisedly. The report of Inspector, RPF enclosed with the DRM report also concludes the same. The DRM report contains copies of the statements recorded by the police during the course of investigation Ranbir Singh, who attended site, has stated that after seeing the site and the dead body it appears that the deceased was run over by some train at night as there is a passage for going to Baba and Panchsheel colonies at site. Sukhram, Gang Man has also stated the same. Shri Sanjit Kumar, brother-in-law of the deceased has stated that the death of deceased was due to being run over by train. Sachin Dahiya, the applicant has also stated that the death of his father was due to injuries sustained in train accident. While these statements were recorded on the day of the incident, statement of Sanjeev Dahiya, the second applicant was recorded on 25.5.2011 and he has stated that the death of his father was due to getting run over by train due to fall in a train accident. These statements support the conclusion in the DRM report that the death of the deceased was due to being run over by some train.

10. The DRM report contains the statements of the loco pilot and the Guard of train no. 64463 (1 NKM) wherein it is stated that on 11.3.2011, this train left Rathdhana station at 2.19 a.m. and passed through Harsana Kalan railway station and reached Sonipat at 2.29 a.m. and no untoward incident was reported by this train. In support of these statements, copy of Guard memo book for the subject train has also been enclosed with the DRM report which shows that the train left New Delhi at 1.10 a.m. and reached Sonipat at 2.29 a.m. and there is no entry of any untoward incident on this date. The incident occurred near Sonipat Station and it is highly unlikely that the alleged fall of the deceased from the train was not noticed by any of the passengers, who come near the gate of the compartment to detrain when the train is approaching a stopping station.

11. Further, if the deceased fell from this train, as alleged, the incident would have occurred before 2.29 a.m. However, the memo of Station Master, Sonipat, Ex.AW-10 is issued at 4.30 a.m. The statement of Manjit Singh, Driver of train no. 14554 is also enclosed with the DRM report wherein he has stated that on 11.3.11, when his tram started from Sonipat at 4.30 a.m. after scheduled halt, he noticed a dead body lying on the down line at



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km. no. 41/04- 41/02 between Sonipat and Harsana Kalan railway stations and he informed the Station Master Sonipat on the walkie - talkie. It is highly unlikely that a dead body lying on the track would have remained unnoticed for more than 2 hours on this busy train route. Therefore, the evidence on record also does not support the averment of the applicants that the deceased travelled by 1NKM passenger on 11.3.11.

12. 1 NKM passenger train from New Delhi to Sonipat is an up train which passed site of incident on the up line track. The dead body of the deceased was found in the middle of the down line track. If the deceased actually had a fall from this train leading to his death, as alleged, his body is likely to fall near the up line track. It is highly improbable that his body would fall on the down line track which is at a safe distance away from the up line track. The death report, Ex.AW-11 contains a site sketch which shows that the shoe of the left foot of the deceased was lying in the down line track at the place where there is a passage for going to Panchsheel colony. The shoe of right foot is shown lying at a distance from the shoe of the left foot towards Delhi side outside the down line track. The body of the deceased is shown lying further away towards Delhi side inside the track at a distance from both the shoes. The site conditions suggest that the deceased was apparently hit by some down train going towards Delhi somewhere near the place where the shoe of the left foot was lying and was dragged by the train to the place where the dead body was found lying. The fact that the dead body was lying inside the track also suggests that it is a case of run over as concluded in the DRM report and not of fall from the train. The post mortem report shows various lacerated wounds on different parts of the body, fracture of rib nos. 7, 8, 9 and 10 on left side, compound fracture of right wrist joint and other injuries, which also support the conclusion in the DRM report. The passage for Panchsheel colony at the site gives support to the conclusion that the deceased met with train accident while crossing the railway track. The report of police investigation submitted by the applicant also shows that the death of the deceased was due to train accident. Thus, the evidence on record does not support the averment of the applicants that the death of the deceased was due to an accidental fall from the train amounting to an untoward incident within the ambit of Section 123 (c) of the Railways Act.

13. In the Jamatalashi of the deceased, Ex.AW-12 no journey ticket or any other article was recovered from the person of the deceased. The applicants have not placed on record any evidence to show that the deceased purchased or had any railway journey ticket for his alleged travel by 1NKM passenger train from New Delhi to Sonipat. In the decision rendered on 9.1.14 in FAO No. 476/2011 (Shahajad and others V/s. Union of India) the Hon'ble High Court of Delhi held that the initial onus of showing that the deceased was



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a bona fide passenger in every civil case including a claim petition filed before the Railway Claims Tribunal has to be on the applicants. It was observed "There is no provision in the Railways Act or the Railway Claims Tribunal Act or ratio of any judgment of the Honorable Supreme Court that initial onus in the claim petition is not on the applicants but on the Railways". In the present case, the journey ticket is admittedly not recovered and the applicants have failed to discharge the initial onus lying on them to show that the deceased was a bona fide passenger. On the other hand, the evidence on record does not support their contention that the deceased travelled by 1NKM passenger train. The deceased cannot, therefore, be construed to be a bona fide passenger on board 1NKM passenger train on 11.3.11 from New Delhi to Sonipat. In the circumstances, it is held that the applicants have failed to show that the deceased was a bona fide passenger on board 1 NKM passenger train and that his death was due to an accidental fall from the train amounting to an untoward incident within the ambit of Section 123 (c) read with Section 124-A of the Railways Act. The issues are answered accordingly."

5. Assailing the aforesaid findings, learned counsel for the appellants urged that the deceased was employed as a security guard at the Taj Mahal Hotel, New Delhi, and used to commute daily from New Delhi to his native place at Sonipat. It was contended that there was no reason why he would not have purchased a valid railway/journey ticket. While there may be some merit in the plea by the appellants that the deceased, after completing his duties, was returning to Sonipat and most likely died due to a train accident, there is no evidence on record to suggest that the deceased fell from a running train. The plea that the train was overcrowded also does not advance the appellants' case, as there is no report of any passenger falling from the running train, nor was any information provided to the GRP, nor was the emergency chain/brake pulled to indicate such an incident.

6. In this regard, initial investigation in the DRM Report goes to suggest that the dead body was found lying between the two tracks



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and not on the side ways The statement of Manjit Singh, Driver of train no.14554 was also recorded, who stated that on 11.03.2011, he started the train from Sonipat at 4.30. a.m., after the scheduled halt and he noticed that the dead body was lying on the down line at km no.41/04-41/02 between Sonipat and Harsana Kalan Railway Stations. The findings by the learned RCT that the dead body was found in the middle of the down line track and the nature of the injuries were such that would rather go to suggest that the deceased was hit by some train, when he was attempting to cross over the railway tracks cannot be said to be flawed in any manner. The Post Mortem Report shows various lacerated wounds on the different parts of the body with fracture of rib nos.7, 8 9 and 10 on left side and compound fracture of right wrist joint besides other abrasions that substantiate the findings of the DRM Report that the deceased met with a train accident while crossing over the railway tracks.

7. The aforesaid finding coupled with the fact that no railway/journey ticket was found on the body of the deceased clearly goes to suggest that though the deceased died due to a train accident, it was not a case of an untoward incident within the meaning of Section 123 (c) of the Railways Act, and therefore, the respondent/Railways cannot be fastened with any liability to pay compensation to the appellants.

8. In view of the foregoing discussions, the present appeal is dismissed.

DHARMESH SHARMA, J.

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