



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on: 28 April 2025**
Judgment pronounced on: 15 May 2025
+ **FAO 50/2022**

RAMESH CHAND & ANRAppellants
Through: **Ms. Vijay Laxmi, Adv**

versus

UNION OF INDIA
THROUGH THE GENERAL MANAGERRespondent
Through: **Mr. Ghanshyam Mishra, Adv.**

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The appellants, who are father and mother of the deceased/Sh. Kanahiya who died in a rail accident, have preferred this appeal under Section 23 of the Railway Claims Tribunal Act, 1987¹ to set aside/quash the impugned order dated 04.02.2021 passed by the Railway Claims Tribunal, Principal Bench, Delhi² whereby the claim petition of the appellants/claimants, filed under Section 16 of the RCT Act, seeking compensation for the death of their son/Sh. Kanahiya in an alleged untoward incident was dismissed.

2. Briefly stated, it was the case of the claimants/appellants that Sh.

¹ RCT Act

² RCT



Kanahiya³ had gone to visit his relatives and was travelling back from Tilak Bridge station to Ballabgarh Railway station on 16.01.2018 when he accidentally fell from the train between Tuglakabad and Faridabad Station on 17.01.2018 and died as a result of this fall. It was alleged that the uncle of the deceased Sh. Jagbir had purchased the ticket of the deceased and put him in the train at Tilak Bridge Station. It was alleged by the claimants/appellants that the ticket was lost in the incident.

3. In support of their claim, the appellants filed several documents including Police and Post-Mortem reports, and the appellant/Sh. Ramesh Chand also filed an affidavit alleging that he came to know about the death of his son on 19.01.2018 from some newspaper. The mother of the deceased also stated the same. An affidavit was also filed by Sh. Jagbir, brother-in-law of the appellants, as AW-2 who claimed that he had purchased the ticket of the deceased and put him in the train.

4. The respondent/Railways contested the claim and it was contended that the deceased was neither a *bona-fide* passenger nor a victim of an 'untoward incident' as no ticket was recovered from him and the body was found cut into two parts, clearly indicating that he was run over by a train while crossing the tracks unauthorizedly. It was also contended that it is not possible for parents not to find out about the incident for three days, if they were expecting him back on 16.01.2018. In essence, relying upon the DRM Report, it was averred

³ Deceased



that the deceased was run over by an unspecified train while trying to cross the tracks and the respondent is protected under Section 124A (c) of the Act as the death of the deceased was due to his own negligent act.

5. Aggrieved by the dismissal of their claim, the appellants have preferred the present appeal, *inter alia*, on the grounds that the learned RCT failed to appreciate the evidence on record and erroneously concluded that the incident did not fall within the ambit of an ‘untoward incident’ as contemplated under the Railways Act, 1989⁴.

6. Based on the pleadings, learned RCT framed the following issues: -

- “1. Whether the deceased was a bona-fide passenger of the train at the time of incident?
2. Whether the alleged incident is covered within the ambit of Sec. 123(c)(2) read with Section 124-A of the Railways Act?
3. Whether the applicants are the sole dependents of the deceased?
4. Relief”

7. The learned RCT decided issues no. 1 and 2 against the appellant/claimant. The learned RCT observed that the AW-2/Jagbir had been vague in his testimony and neither stated any specific train nor mentioned any specific timings of the rail journey performed. The learned RCT also observed that it was not possible that the parents of the deceased who were aware that he was travelling back after meeting

⁴ The Act



a relative **on 16.01.2018 via train**, found out about the incident after 3 days from the newspaper. Further, if that were the case, there would have had some conversations between the appellants and Jagbir/AW-2, and thus, the statements and affidavit of Jagbir were held unreliable. Moreover, the injuries sustained by the deceased were consistent with a case of a person being hit by a train engine and not a fall from a train. Hence, this appeal.

ANALYSIS & DECISION

8. I have heard the learned counsel for the parties and have perused the record including the digitized Trial Court record.

9. To begin with, it would be apposite to reproduce the relevant findings recorded by the learned RCT with respect to issues Nos. 1 and 2:

“8. After hearing arguments of both counsels and perusal of records, it is seen that nothing was recovered from the deceased in the Jamatalashi as recorded by the GRP and that no ticket was found on the body of the victim. Further, Sh. Jagbir, Applicant Witness has claimed that he had come from Palam to Tilak Bridge Railway Station to drop the deceased at this Railway Station and purchased a ticket for him and gone back to Palam in the afternoon (Ann. A-12) and he has also stated that he had informed the father of the deceased in the evening regarding this (Affidavit at S. No. 104). However, it is seen that the body was recovered only at 00:20 hrs on 17.01.2018. In his cross examination Jagbir states that journey time between Tilak Bridge and Ballabhgarh is about one hour. He also states that he had never visited Tilak Bridge earlier. If the deceased had been put on a train by Jagbir as stated by him in the afternoon or evening, the deceased would have reached his destination much before the time of discovery of the body. It is common knowledge that the train journey between Tilak Bridge and Ballabhgarh would not take more than an hour or so. In all his averments, it is noticeable that the



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statements of Jagbir are vague and non-specific. He lives at Palam, goes to drop his wife's nephew to Tilak Bridge where he has never been before, does not state the train on which he put the deceased and does not mention any specific timings. If he had actually performed all these tasks, he would have been able to give at least some specific timings. The deceased had come to visit them on his own, yet it is not clear why he needed to be dropped by Jagbir at a station so far from where Jagbir lived and to which he had never gone before. It is also seen that no mention of any other conversation with the father of the deceased is made even though the deceased did not reach home and the parents found out about his death only 3 days later. All these discordances render the statements and affidavit of Jagbir to be unreliable and he clearly seems to be a made-up witness.

9. Further, the finding of the body into two parts with the legs inside and the rest of the body outside the track clearly indicates that deceased was run over. Falling from a train cannot cause the body to be amputated in the way it was found and a fall cannot result in the amputation of the body into two parts as indicated in 'Naksha' along with the Police Report. The Post Mortem Report also records that the left upper limb was missing and that the body had multiple crush injuries, fractures, lacerations and abrasions. Such multiple and serious injuries are consistent with a case of a person being hit by a train engine but will not occur if a person has simply fallen from a train.

10. The fact that the parents found out about the incident only from newspapers on the 19th of January, i.e., more than 48 hours after recovery of the body, despite being informed by Jagbir that he was on his way home on the 16th also points to the fact that the parents were not aware that he was returning by train from his relatives. Had that been the case, they would have made efforts to locate him earlier and there would have been many more conversations between Jagbir and Ramesh Chand than the single communication of the 16th evening. This makes it clear that the deceased had not gone to his relatives to Palam and was not returning by a train but may have been home and gone somewhere just before his body was recovered.

11. The circumstances of position of the body, the body being found cut in two parts with one part inside tracks and the other outside, the timings as adduced from the evidence of Sh. Jagbir, the inconsistencies in his statements which make his testimonies unreliable, the unlikely situation where the parents would not have made any enquiry from Jagbir or anyone else if deceased had not



reached home on 16.01.2018 or 17.01.2018, all indicate that the claim is incorrect and cannot be true. The finding of the body in two parts and the injuries recorded in the Post Mortem also establish that the deceased was run over and was not a victim of a fall from the train. Taking these factors into consideration, it is held that the deceased was neither a bona-fide passenger nor a victim of untoward incident but was run over by a train. As such issues nos. 1 & 2 are decided against the applicant.”

10. Needless to state, in view of the abovementioned findings, issues no. 3 and 4 were decided against the appellant/claimant.

11. On a careful perusal of the aforesaid reasons given by the learned RCT, this Court has no hesitation in holding that the present appeal is bereft of any merits as the findings recorded by the learned RCT are not perverse, incorrect or unconscionable in law.

12. At the outset, as per the statement of Mr. Shyam Sunder, ASI, RPF, Faridabad and Mr. Pradeep, Constable, nothing was recovered from the deceased during the *Jamatalashi* and no railway/journey ticket was found on the body of the deceased. Further, AW-2/Jagbir stated that he dropped the deceased at the Tilak Bridge railway station and the journey time between Tilak Bridge and Ballabhgarh was about an hour but the body of the deceased was only found at 00:20 hrs on 17.01.2018. Had Jagbir seen off the deceased at the Railway Station boarding the train, as stated by him, the deceased would have reached his destination much before the time of the discovery of the body. The evidence of AW-2/Jagbir suffers from grave inconsistencies, and his failure to disclose basic specifics such as train details or timings severely



undermines his credibility.

13. It is difficult to displace the findings recorded by the learned RCT that the deceased's body was run over by a train. It was concluded that falling from a train could not have been the cause the body to be amputated/mutilated in the way it was found. Further, the post mortem report dated 18.01.2018 also recorded that the left upper limb was missing and that the body had suffered multiple crush injuries, fractures, lacerations and abrasions. Such serious injuries are consistent with the case of a person being hit by a train engine and not simply falling from a train. The DRM Report too supports the finding that the deceased was probably struck while crossing the tracks, and that the incident occurred due to his own negligence.

14. The fact that the parents of the deceased found out about the incident from the newspaper on 19.01.2018 i.e., more than 48 hours after the recovery of body despite being informed by Jagbir that the deceased was on his way on 16.01.2018, is also questionable. The absence of any meaningful follow-up communication with AW-2 further strengthens the inference that the deceased was not travelling by train from his relatives' residence.

15. At the cost of repetition, no railway/journey ticket was found on the body of the deceased. While it may be argued that the ticket might have been lost in the mishap, the complete absence of any eyewitnesses or corroborative material renders the appellants' claim devoid of persuasive merit.



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

DHARMESH SHARMA, J.

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