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

% **Date of decision: 17th March, 2025**

+ **FAO 104/2021**

BUDHU SINGH AND ORSAppellants
Through: **Mr. Rajan Sood, Ms. Ashima Sood and Ms. Megha Sood, Adv.**

versus

UNION OF INDIARespondent
Through: **Mr. Gaurav Sharma, Mr. Siddhartha Nagpal, Mr. Sachin Singh and Ms. Lipika Chawla, Adv.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 9435/2021 – DELAY OF 245 DAYS IN FILING

1. There is a delay of 245 days in filing the present appeal on behalf of the appellants. No reply to the said application has been preferred on behalf of the respondent.
2. Learned counsel for the respondent has no objection if the said application is allowed.
3. For the reasons stated in the application and in interest of justice, the delay in filing the present appeal is hereby condoned.
4. The application is disposed of.

FAO 104/2021

5. This appeal is being preferred by the legal heirs of the deceased/Deepak under Section 23 of the Railway Claims Tribunal



Act, 1987 [for short referred as the “RCT”], for setting aside/quashing of the impugned judgment dated 20.12.2019, passed by the learned presiding officer/RCT, Principal Bench, Delhi in case No. OA(IIU) No. GZB/63/2017.

6. In short, the claimants preferred an application under Section 16 of the RCT Act read with Section 124A of the Railways Act, 1989, seeking compensation on account of death of Deepak, aged 21 years, on 13.01.2017, while travelling by Mail Express Train from Chandigarh to Nagina and allegedly accidentally falling down at KM No. 1529/32-30 between Raysi and Balawali due to overcrowding and jerk in the train, resultantly sustaining fatal injuries on the vital parts of his body.

7. The principal grounds on which the learned presiding officer/RCT has dismissed the claim petition, are as follows:

“6.4) The most glaring fact which is noticeable here is that from the bare reading of the alleged railway journey ticket annexed with the claim application, it can be easily transpired that it seems to be a new one as if it were issued today, whereas according to the condition of the dead body, this ticket should have been in a mutilated condition containing stains of blood on it, because as per the Inquest Report, the deceased sustained multiple lacerated wounds, abrasions and crush injuries and his body, with blood stained clothes, was found lying the bushes near to the track.

6.5) It is relevant to highlight here that I have seen in a number of cases that it is very easy to procure travelling tickets from any railway station. There is no method of keeping the records of these used tickets/collected tickets at the railway stations. Moreso, there is no proper system of disposal of these used tickets/collected tickets. Since this was a general ticket, which was not containing the details of the passengers viz. name of the passenger, age or train number. Thus, from the perusal of these documents, it appears that the ticket, which was annexed with the claim application, seems to be procured and planted by the applicant, in connivance with the middleman, who may be interested in sharing the claim amount.



Thus, in these circumstances, the deceased cannot be termed to be a bonafide passenger.

Secondly, as far as the issued of “Untoward Incident” is concerned, the applicant has pleaded that the deceased die due to accidental fall from the running train because of jerk, but none of the witnesses have either seen the deceased while purchasing, boarding or falling down from the train. It is pertinent to mention here that the dead body of the deceased was found in the nearby bushes, which were few feet away from the railway track. Thus, finding the dead body in such a condition, that too a few feet away from the track, insofacto, does not prove that the demise of the deceased was due to accidental fall from the train.

On the other side, from the nature of injuries sustained on the person of the deceased, and the fact that the dead body of deceased was lying in the bushes, a few feet away from the railway track, with multiple abrasions, lacerated wounds and crush injuries on his person, which indicate that it is possible that the deceased might have entangled with the moving train while standing near the track or walking along the track, which resulted into his death. More importantly, it is noted that the family of the deceased came to police station after receipt of information. Thus mere alleging of happening of untoward incident on the part of the applicants, does not ipso facto, proves that the deceased accidently fell down from the train until and unless proved by some cogent and convincing evidence that he was travelling in the train as a bona fide passenger. Such onus has not been discharged by the applicants by adducing any plausible evidence.

From the facts of the case as well as surrounding circumstances, it is writ large on the file that it is not a case of death of the deceased coming within the purview of an untoward incident within the meaning of section 124-A of the Railways Act. Moreso, the deceased was not a bona fide passenger of any train at the relevant time, hence, both these issues are answered against the applicants.

Issue No. 3

In view of my findings on the aforesaid main issue, this issue has become redundant, hence, needs no finding.”

8. Learned counsel for the appellants/claimants has pointed out that the dead body of the deceased was discovered at 10:25 am and the Panchnama was prepared on discovery of the dead body at about 11:15 AM, wherein in the Jamatalashi of the deceased, it was *inter alia* indicated that a railway ticket was found.



9. It is pointed out that in the roznamcha entry made by the Railway Police Force [“RPF”] dated 13.01.2017 at 12:30 PM, it was *inter alia*, recorded that from the Jamatalashi of the deceased, apart from the recovery of Rs.2,500/- in cash and a black Lava mobile phone, a ticket number No.48504488 issued from Chandigarh to Nagina was also recovered.

10. It is also pointed out that the verification of the ticket was done at the behest of Inspector, RPF, and it was verified that the ticket which was recovered from the Jamatalashi of the deceased was issued from Chandigarh on 12.01.2017.

11. *Per contra*, learned counsel for the respondent has urged that there was no mention of the name of the passenger on the ticket and it is also urged that the body of the deceased was found far away from the railway track.

12. *Ex facie*, the findings recorded by the learned RCT are not only perverse but also unconscionable, and cannot be sustained in law. It is borne out from the record that at the first available opportunity, the railway ticket was found on the Jamatalashi of the deceased. The reasoning accorded by the learned RCT that the railway ticket was not having any blood stains, belies common sense. The claimants or for that matter no one had any knowledge of the death of the deceased and they had no opportunity to plant the railway ticket.

13. Furthermore, as it is not the case that anyone claimed that there were blood stains on the currency notes and/or the mobile phone, which were recovered from the body of the deceased. Newtons third law does not apply in a matter like this so to warrant that the bodily



injuries suffered must have left traces of blood on the railway ticket. There is no thumb rule that there should be blood stains on the personal belongings of the deceased passenger in case of injuries which were sustained by the deceased passenger.

14. Unhesitatingly, the deceased was a *bona fide* passenger and it was a case of a railway accident. The plea by the Learned counsel for the respondent that the body was found little away from the railway tracks cuts no ice. It would be relevant to invite reference to decision in the case of **Maya Devi vs. Union of India** [FAO 221/2013], wherein the following observations were made:

“6. The other conclusion of the Tribunal that since the body was lying towards the down track and hence there was no train travel is equally fallacious. Firstly, the Tribunal cannot conclude that merely because the dead body was recovered in the field 6-7 meters away from the down track adjacent to the up-track in which the deceased was travelling, this case will not be a case of a fall from the train. It is very much possible that after falling down from the train, the deceased had that much amount of life and strength to move himself for a few meter before completely collapsing. Merely because the body is found 6-7 meters away from the track cannot mean that the deceased was not travelling on the train. This conclusion of the Tribunal is also therefore quite clearly erroneous and is hence set aside.”

15. In the present case, it starkly comes out that the deceased was working at Chandigarh, who was a native of Nagina, and the body of the deceased was found somewhere on the railway track between Raysi and Balawali, and it can be reasonably inferred that due to the shear intensity of the speed of the train, the body was flung away and landed at some distance from the railway tracks. As a matter of fact,



the nature of the injuries¹ reflected in the post mortem report clearly demonstrates that the said injuries could have been possibly sustained by a fall from a running train.

16. In view of the foregoing discussion, the present appeal is allowed. The impugned order dated 20.12.2019, passed by the learned presiding officer/RCT, Principal Bench, Delhi, is hereby set aside.

17. Accordingly, the appellants/claimants are made entitled to statutory compensation of Rs.8,00,000/- with interest @ 9% from the date of accident till the realization.

18. As regards apportionment of the amount of compensation, the appellant/claimant no. 1 happens to be the father of the deceased, whereas the appellants no. 2 & 3 are the widow and a minor child respectively.

19. It is directed that the appellant No.1, Mr. Budhu Singh, father of the deceased, shall be entitled to Rs.80,000/- with accrued interest and the remaining amount of Rs.7,20,000/- shall be apportioned between the widow and the minor daughter with her mother as the legal guardian in the ratio of 3:1 with accrued interest.

20. The appeal is hereby disposed of. Pending applications, if any, stand disposed of.

DHARMESH SHARMA, J.

MARCH 17, 2025/*Gunn*

¹ Injuries suffered by the deceased are (1) L/W 7x6cm on left side of frontal region of head abrasion 10cmx3cm on left thigh (2) Contusion 12cmx9cm on left side buttock and the cause of death is hemorrhagic shock due to ante-mortem head injuries.