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

% **Date of decision: 24<sup>th</sup> April, 2025**

+ FAO 252/2021

SNEHLATA & ANR.

.....Appellants

Through: Mr. Anubhav Dubey, Mr.  
Sachidanand Chaudhary, Mr.  
Yash Narayan Trivedi and Mr.  
Sparsh Gola, Advs.

versus

UNION OF INDIA

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE DHARMESH SHARMA**

**DHARMESH SHARMA, J. (ORAL)**

1. The appellants, who are the wife and the daughter of the deceased Raj Bahadur, have preferred the present appeal under Section 23 of the Railways Claims Tribunal Act, 1987 [“Act”], assailing the impugned order dated 31.03.2021 passed by the Learned Railway Claims Tribunal, Principal Branch, Delhi [“RCT”] in the claim application OA/II(u)/DL1/203/2018, whereby the claim petition filed by the appellants/claimants seeking statutory compensation of Rs. 8,00,000 for the death of Raj Bahadur was dismissed.

2. In a nutshell, it is the case of the claimants/appellants that on 24.01.2018, the deceased was travelling from Delhi Shahdara to Ghaziabad on a valid train ticket bearing No. 043355741. It is alleged that during the course of the journey, the deceased accidentally fell from the moving train in the vicinity of Jhilmil Metro Station and



sustained fatal injuries. It was stated that owing to the winter season and limited visibility, the presence of the deceased's body went unnoticed. Subsequently, on 25.01.2018 at approximately 11:00 hours, the body was discovered and reported by the PCR<sup>1</sup>, following which the GRP<sup>2</sup> was duly informed. The body was thereafter transported to GTB Hospital, Delhi, where a post-mortem examination was conducted on 27.01.2018.

3. Suffice to state that the respondent contested the claim petition and, placing reliance on the DRM<sup>3</sup> enquiry report, asserted that the train ticket recovered from the body of the deceased was dated 24.01.2018 and had been issued at 16:44 hours, whereas the incident was reported on 25.01.2018 at approximately 11:20 hours. It was further contended that between the time of issuance of the ticket and the occurrence of the alleged incident, more than seven passenger/EMU trains operated between Shahdara and Ghaziabad, thereby rendering it highly improbable that the incident took place on 24.01.2018.

4. The improbability was further strengthened by the fact that heightened security measures were in place in light of the forthcoming Republic Day celebrations. Additionally, the post-mortem report corroborated that the death occurred on 25.01.2018. It was also pointed out that the PCR was alerted by Randhir Kumar (CW-1), an eyewitness to the incident, who stated that the deceased came in contact with a moving train and was run over on 25.01.2018.

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<sup>1</sup> Police Control Room

<sup>2</sup> Government Railway Police

<sup>3</sup> Divisional Railway Manager



5. Learned RCT based on the pleadings of the parties framed the following issues :-

- I. Whether the deceased was a bona fide passenger of the train in question at the relevant time of the incident?
- II. Whether the death of the deceased was on account of an accidental fall from the train in question amounting to an untoward incident as defined under Section 123(c) read with Section 124-A of the Railways Act, 1989?
- III. Whether the applicants are the legal heirs and dependants of the deceased within the meaning of Section 123(b) of the Railways Act, 1989?
- IV. To what amount of compensation, if any, are the applicants entitled?
- V. Relief, if any?

6. The Issues No. 1 and 2 were decided against the claimants/appellants, and therefore, the claim petition was dismissed, which decision is assailed in the present appeal.

### **ANALYSIS AND DECISION:**

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

#### **“Issue No. 1 & 2**

Since both the issues are inter related, they have been dealt together for convenience. The claimant has submitted that deceased was a bona fide passenger and the incident occurred on 24.01.2018 and the ticket recovered from the body of the deceased has been filed to prove his bona fide. From the DD no. 10 PP dated 25.01.2018 (AI) it is noted that Railway Police Chowki Shahdara, got the information over wireless set from PCR that behind Jhilmil Metro Station on railway track a person has been run over by a train. The said information was provided to PCR by person having mobile no. 8076444475 and based on this information ASI Soran Singh was handed over the case for investigation who left for the site with Constable Parminder Kumar. As per DD No. 11 PP, on



reaching the site at KM 7/32- 34 North line a dead body was found which was photographed from different angles and Jamatalashi was done from where a ticket bearing no. M-043355741, dated 24.01.2018 for Rs. 10/- issued at 16:44 hours from, Delhi-Shahdara to Ghaziabad was recovered. The deceased had heavy head injury and body was also found stiffened from where a conjecture was drawn that deceased might have fallen at night. Deceased was shifted through Private Ambulance to mortuary at G.T.B. Hospital for Post mortem by preserving for 72 hours for identification purpose. It is further noted that on 26.01.2018 Hariom reached police chowki Shahdara and identified the deceased after seeing his photograph and the dead body at the mortuary. On the same day Ram Naresh has also given statement that he has identified the body of deceased as of Raj Bahadur. After identification of the body. Post mortem was conducted on 27.01.2018 between 11:10 to 12:15 hours where it is mentioned that time since death is about 2 days.

The most pertinent issue in this case to be decided is on what date actually, the incident occurred. As per the applicant, the incident occurred on 24.01.2018 in the evening hours and in support of that they have relied upon the recordings of ASI Soren Singh, in DD no. 11 PP that the body was Stiffened. This point was emphasised by counsel for the applicant during argument. The counsel for the respondent has however referred to the Post mortem report which mentions time since death is about 02 days. The Post mortem was conducted on 27.01.2018 so the death must have occurred on 25.01.2018. Moreover, he referred to the fact that stiffness of the body as mentioned by ASI Police Chowki cannot be relied upon because he is not a forensic expert. However, most important point in this case is the statement given by an independent witness Randhir Kumar who is claimed to have seen the incident as an eyewitness. He informed the police which is evident from DDno.10 PP of 25.01.2018 of Railway Police Chowki Shahdara because his mobile number is mentioned therein and he has given statement to the Investigating Officer in the case which has been enclosed at Page 27 of DRM report. He has categorically stated that he saw one person going on railway track when a train was approaching him, he tried to protect himself and in the process was dashed by the train and died due to head and other injuries. He has also deposed before the court where he has reiterated the incident. Being an independent witness, his testimony cannot be ignored and I have therefore relied upon his testimony and hold that the incident occurred on 25.01.2018 when deceased was hit by some unknown train as a result of which he died. Having decided this the ticket recovered from his body does not prove his bona fide on the



date where he died as the said ticket was of the previous day. Accordingly, both the issue number one and two are decided against the applicant.”

8. At the outset, upon a careful examination of the aforementioned facts and reasoning, it becomes evident that although a railway ticket dated 24.01.2018 for the journey from Delhi Shahdara to Ghaziabad was recovered from the body of the deceased, the date on the ticket stands in contradiction to the findings of the post-mortem report, which unequivocally indicate that the death occurred on 25.01.2018. Furthermore, the testimony of Randhir Kumar (CW-1), the sole eyewitness to the incident, conclusively clarified the sequence of events. He stated that on 25.01.2018, he observed an individual walking on the railway track as a train was approaching; despite the individual’s attempt to avoid the train, he was struck and sustained fatal head and other injuries. Additionally, both the Panchanama report and the DRM enquiry report unequivocally recorded that the deceased had not fallen from a moving train, but had instead been struck by a passing train in the vicinity of Jhilmil Metro Station—a location where the train in question was not scheduled to stop.

9. In view of the foregoing, the respondent is clearly protected under Section 124(A) of the Railways Act, 1989<sup>4</sup>, since the injuries

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<sup>4</sup> **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—



sustained were self-inflicted due to the deceased's rash and negligent act of attempting to deboard a moving train.

10. Merely because the deceased's death involved the railway does not automatically lead to the inference that it resulted from an untoward incident within the meaning of the Act.

11. In light of the foregoing discussion, the present appeal stands dismissed.

**DHARMESH SHARMA, J.**

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- (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.