



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

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**Judgment reserved on: 24 April 2025**  
**Judgment pronounced on: 29 April 2025**

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FAO 29/2020 & CM APPL. 2075/2020

SMT. RINAVATI & ORS

.....Appellants

Through: Mr. Rajan Sood, Ms. Ashima  
Sood and Ms. Megha Sood,  
Adv.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Jivesh Tiwari, Sr. PC  
with Ms. Samiksha, Adv.

**CORAM:**

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

### **J U D G M E N T**

1. The appellants, being the widow and children of deceased Shishu Pal, have preferred this appeal under Section 23 of the Railway Claims Tribunal Act, 1987 [“**RCT Act**”], thereby seeking quashing of impugned judgment-cum-award dated 07.08.2019 passed by the learned Railways Claims Tribunal, Principal Bench, Delhi [“**RCT**”] in claim application bearing No. OA(Iiu) 176/2018 titled ‘*Smt. Rinavati v. Union of India*’, whereby their claim seeking compensation on account of death of Shishu Pal in an ‘untoward incident’, was dismissed.

### **FACTUAL BACKGROUND:**

2. In a nutshell, it is the case of the appellants that on 14.10.2017 Shishu Pal was traveling from Una Himachal to Amb Andaura and then from Amb Andaura to Chandausi *via* Delhi, on valid tickets No.



57944935 and 57944936. It was stated that he firstly travelled from Una to Amb Andaura and thereafter, he might have taken train a from Amb Andaura to Delhi. It was averred that it was Diwali time and they were not clear if the deceased had taken a direct train or had changed trains for coming to Delhi from Ambala. They claimed that while Shishu Pal was travelling by train and the train reached Shakti Nagar near Shalimar Bagh, Delhi, he fell down from the train, resulting in grievous injuries and succumbed to the same on 15.10.2017.

3. The respondent in its reply denied that the deceased was a *bonafide* passenger and it was submitted that as per DD entry No. 15A dated 15.10.2017 recorded at 19:40 hours, an intimation was recorded regarding a man who had been run over by a train, received through PCR<sup>1</sup> and the same was forwarded to PS<sup>2</sup> Subzi Mandi Railway Station. It was submitted that there is only one train running from Amb Andaura to Delhi i.e., Himachal Express (Train No. 14554), which was scheduled to arrive at Subzi Mandi Station at 04:53 hours whereas the memo was issued by the Station Superintendent, Subzi Mandi at 20:30 hours and the dead body was found near downline. The crux of the DRM<sup>3</sup> Report was that on 14.10.2017, the deceased had fallen at KM No. 4/6-4 due to his own negligence.

4. The learned RCT framed the following issues:

- “1. Whether the deceased was a bona fide passenger of the train in question at the relevant time of the incident?

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<sup>1</sup> Police Control Room

<sup>2</sup> Police Station

<sup>3</sup> Divisional Railway Manager



2. 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?”

5. Suffice it to state that although the learned RCT found that the two railways tickets which were recovered from the body of the deceased were verified and found to be genuine, being second class tickets for Express Train, but it also observed that as per the record produced by the respondent-Railways, the Himachal Express (14554), which originates from Amb Andaura had left the Amb Andaura station for Delhi at 20:19 hours on 14.10.2017 and there was no other train that was covering the same stretch on the same day. It was found that there was no evidence placed on the record to show that the deceased had actually boarded such train and while the train had crossed the site of the accident at nearly 05:38 hours in the morning, the dead body of the deceased was reported in the night, precisely at 19:40 hours. In the said circumstances, it was held that there was no clinching evidence to show that the deceased had died due to fall from a train as was claimed by the appellants and resultantly, the claim petition was dismissed. Hence, the present appeal.

#### **ANALYSIS AND DECISION:**

6. Having heard the learned counsel for the parties and on a careful perusal of the record, **first things first**, there is no issue with regard to the identity of the dead body found from the accident site on 15.10.2017 at 19:40 hours from KM-4/6-4. The plea raised by the learned counsel for the respondent that it was Diwali time, and the dead body of the deceased was sent for *post mortem* after 20 days and



cremated as ‘unidentified body’ would show that the identity of the body found was not confirmed as that of the deceased Shishu Pal. It was urged that there is no Missing Person report filed and it is surprising that the family members did not take any action for about 21 days.

7. Such pleas are only recorded to be rejected since it must be appreciated that the deceased was a daily wager/labourer and the version of the wife Smt. Rinavati that the dead body belonged to her husband was not questioned in her cross-examination. It is borne out from the record that the dead body of the deceased was identified by the appellants as well as family members based on the photographs which had been taken by the police. It goes without saying that such aspect was not even raised before the learned RCT, and therefore, this Court has no hesitation in holding that the dead body belonged to the deceased Shishu Pal.

8. **Secondly**, it is also borne out from the record that the dead body was found along with two railway tickets besides Rs. 310/- and the tickets were confirmed to be genuine as per the report dated 22.02.2019 which is Ex. R-2. It can be safely assumed that since the deceased had valid railway tickets, he could have travelled by any Express Train in the second class bound for Delhi. The finding recorded by the learned RCT that there is no evidence of the deceased having travelled from Himachal Express is lopsided as it overlooks the fact that there are several trains that run from Ambala to Delhi and the deceased might have boarded any of such trains.



9. Further, there is nothing to suggest that the deceased had any reason to deboard the train at Shalimar Bagh or Shakti Nagar, Delhi and considering that his dead body was found at 19:40 hours at Track No. KM-4/6-4, it is highly probable that he was travelling by some train and accidentally fell out, resulting in his death. It is also pertinent to mention that that as per the *post mortem* report, the left leg of the deceased was amputated and he had received severe head injuries. Therefore, the possibility of him having suffered such injuries due to falling from a running train cannot be ruled out.

10. The aforesaid facts and circumstances clearly demonstrate that the deceased died in an ‘untoward incident’ within the meaning of Section 123(c)(2)<sup>4</sup> of the Railways Act, 1989.

11. In view of the foregoing discussion, this Court finds that the impugned judgment-cum-award dated 07.08.2019 passed by the learned RCT cannot be sustained in law and the same is hereby set aside. The appellants are made entitled to statutory compensation of Rs. 8,00,000/- (Rupees Eight Lacs Only) payable with interest of 12% per annum from the date of accident i.e., 14.10.2017 till realization. The same be released in favour of appellant no. 1 i.e., widow of the deceased.

12. The present appeal along with pending application stands disposed of.

**DHARMESH SHARMA, J.**

**APRIL 29, 2025**

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<sup>4</sup> (2) the accidental falling of any passenger from a train carrying passengers.