



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

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FAO 275/2019

OMVIR SINGH

.....Appellant

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

versus

UNION OF INDIA

.....Respondent

Through: Ms. Arunima Dwivedi, CGSC with
Ms. Pinky Pawar and Mr. Sainyam
Bhardwaj, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 assailing the judgment dated 09.01.2018 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the “Tribunal”) in Claim Application No. OA (IIu) 186/2017, whereby the claim petition filed by the appellant seeking statutory compensation on account of injuries sustained in an untoward incident was dismissed.

2. The appellant, Omvir Singh, was the claimant before the Tribunal. He



claims to have suffered grievous injuries resulting in permanent disability while travelling as a passenger in a train belonging to the respondent– Railways. The claim petition was filed invoking the provisions of Sections 123(c) and 124-A of the Railways Act, 1989.

3. The case of the appellant before the Tribunal was that on 25.10.2016, he was travelling from *Ghaziabad* to *Anand Vihar* Railway Station by Train No. 15059 (*Lalkuan Express*) after purchasing a journey ticket, which was claimed to be have been lost by him of a fare of approximately Rs.10/-. During cross-examination, the appellant stated that he could not recall whether the exact fare was Rs.9/-, Rs.9.50/- or Rs.10/-. It was pleaded that when the train reached *Anand Vihar* Railway Station and the appellant was in the process of de-boarding, due to sudden rush and imbalance, he slipped and fell between the train and the platform.

As a result of the said fall, he was removed to Lal Bahadur Shastri Hospital, Delhi from where he was taken to Fortis Hospital, Delhi as the appellant sustained a severe crush injury to his left foot, which ultimately led to a traumatic amputation of his left leg below the knee. The appellant has also placed on record a Permanent Disability Certificate issued by the competent medical authority, certifying 65% permanent physical disability on account of the traumatic amputation of the left foot. The extent of permanent disability clearly demonstrates the grave and lasting impact of the injuries suffered by the appellant as a direct consequence of the incident.

4. The respondent did not examine any oral witness. The defense of the



respondent was primarily founded on the DRM Report, which attributed the occurrence to the appellant's own negligence and opined that the railway administration was not responsible for the incident.

5. Learned counsel for the appellant assailed the impugned judgment by contending that the Tribunal gravely erred in rejecting the claim solely on the ground of non-recovery of the journey ticket. Reliance was placed on the decisions of this Court in *Bhola v. Union of India*¹, to submit that a journey ticket, being a light object, could easily slip out of the pocket at the time of a fall from a train or be lost during such an incident and the non-availability of a ticket at the time of incident is not sustainable. It was submitted that minor discrepancies regarding the exact fare (Rs.9/-, Rs.9.50/- or Rs.10/-) are wholly inconsequential and cannot negate the appellant's status as a bona fide passenger.

It was further submitted that the Tribunal failed to appreciate that even a passenger travelling on a valid general ticket in an express or superfast train is a bona fide passenger. In this regard, reliance was placed on *Prabhu Dayal & Ors. v. Union of India*². Learned counsel contended that once the factum of a fall from the train and resultant grievous injuries is established, the liability under Section 124-A of the Railways Act, 1989, is one of strict liability, and compensation cannot be denied on the basis of conjectures, alleged negligence, or an unproved DRM report.

6. *Per contra*, learned counsel appearing for the respondent supported

¹ 2018 SCC OnLine Del 13486

² 2011 SCC OnLine Del 3921



the impugned judgment and submitted that in the absence of recovery of a journey ticket and independent eye-witnesses, the Tribunal was justified in rejecting the claim and in holding that the appellant was not entitled to statutory compensation. It was further contended that the alleged incident did not constitute an “untoward incident” within the meaning of Section 123(c) of the Railways Act, 1989.

7. The Tribunal, upon appreciation of the pleadings and evidence, dismissed the claim primarily on the ground that the applicant failed to establish his status as a bona fide passenger. While noting that the injuries sustained by the applicant, including amputation of the left leg below the knee, were consistent with a fall from a train and thus answered the description of an “untoward incident” under Section 123(c) read with Section 124-A of the Railways Act, 1989, the Tribunal held that compensation could not be granted in the absence of proof of lawful travel. The Tribunal drew adverse inferences from the applicant’s inability to produce the journey ticket and inconsistencies regarding the fare paid (Rs.9/, Rs.9.50/- or Rs.10/-). On this reasoning, the Tribunal concluded that the applicant was not a bona fide passenger and, notwithstanding its finding that the injuries could have resulted from a fall from the train, dismissed the claim on the bona fide status, rendering the applicant disentitled to compensation. The DRM Report, which has been relied upon by the Tribunal, concludes that the appellant sustained injuries while attempting to de-board the train and attributes the occurrence to the appellant’s own



negligence. The report further opines that the railway administration was not responsible for the said incident.

8. At the outset, this Court considers it necessary to examine the finding of the Tribunal on the appellant's status as a bona fide passenger, as the said finding constitutes the sole basis for rejection of the claim. The appellant has consistently maintained that he had purchased a valid journey ticket for travel from *Ghaziabad to Anand Vihar* Railway Station. He has further explained that the journey ticket could not be recovered owing to the grievous injuries suffered by him in the accident, which resulted in traumatic amputation. This Court, taking note of a catena of decisions wherein compensation has been awarded even in the absence of recovery of a journey ticket and notwithstanding the lack of independent eye-witnesses, provided the claimant's version was found to be credible and supported by surrounding circumstances and medical evidence, finds that the ratio of the said decisions squarely applies to the facts of the present case. It is now a settled position of law that mere non-recovery of a journey ticket, particularly in cases involving serious injuries, is not fatal to a claim under the Railways Act, 1989 (hereinafter referred to as "the Act"). This position is further fortified by the decision of the Kerala High Court in *Union of India v. Leelamma*,³ wherein it was categorically held that mere non-production of a journey ticket is not sufficient to dislodge the presumption of bona fide travel and that the burden lies on the Railways to establish the contrary. The

³ 2009 SCC OnLine Ker 903



relevant extract from the said judgment is reproduced hereinbelow:

*"8. The further dispute of the appellant is based on the plea that the deceased was not a "bona fide passenger". The only ground on which the contention is based is that the train ticket was not produced in evidence. The claimants had a specific case pleaded that, the deceased was holding journey ticket, but the same was lost in the accident. In the decision *Joji C. John v. Union of India* (cited supra) it is held that the burden is on the Railway to prove that the claimant is not a 'bona fide passenger'. It is further held that merely because the Ticket is lost during the accident, the passenger cannot be labelled as "not a bona fide passenger".*

9. The question mooted for consideration is whether due to mere non-production of the ticket, an adverse inference can be drawn by the Tribunal that the person got injured and succumbed to death was travelling without a valid journey ticket and that he was not a bona fide passenger. According to the claimants the deceased was holding journey ticket and the same was lost in the accident. The normal presumption is that a passenger in a Railway holds a valid ticket. When the appellant/respondent contends that the deceased was a passenger who fell down while attempting to board a train, the burden is heavily upon them to prove that he attempted such journey without purchasing a ticket. Since that burden is not discharged by the Railway, the Tribunal is perfectly justified in rejecting the contention that the deceased was not a bona fide passenger. The Railway Tribunal in such cases are perfectly justified in drawing a presumption that the person concerned was travelling or attempting to travel with a valid ticket and in such case the passenger cannot be termed as "not a bona fide passenger"."

Further, this Court finds support for the aforesaid conclusion in the decision of this Court in *Bhola v. Union of India* (supra), wherein it was held that non-availability of the journey ticket, by itself, cannot be a ground to



deny compensation. The relevant extract from the said decision is reproduced hereinbelow:

“6...This Court is of the view that the ticket could have popped out of the pocket of the passenger or otherwise was lost after he fell down from the train. In terms of the reasoning in Maurice K. Lai (supra), rejection of the claim on the ground of non-availability of the passenger ticket is not sustainable, because a lighter object would always fly-off from a pocket if the unfortunate body is violently tossed about at immense velocity in a gruesome and fatal train accident. A heavier object, like a cell phone being better ensconced deeper in the pocket, is likely to stay in the pocket. Additionally, the ticket could have been lost during the efforts of chance good Samaritans or the Railway or police officials or hospital authorities trying to ascertain the identity of the injured person by looking into the contents of the clothes/pockets of the deceased/unconscious persons.”

9. The medical evidence on record provides cogent and contemporaneous corroboration to the appellant's version. Notably, the MLC does not record any suggestion of self-inflicted injury, intoxication, assault, or any alternative cause. The MLC, progress notes, and discharge summaries consistently record a crush injury culminating in traumatic amputation of the appellant's left foot. The nature, gravity, and pattern of the injuries are consistent with a fall from a passenger train and effectively rule out the possibility of a self-inflicted or unrelated injury. The medical record, thus, lends substantial support to the appellant's account regarding the manner of occurrence.



10. The absence of an independent eye-witness cannot, by itself, be a ground to reject the claim. Further, it is trite law that the provisions pertaining to compensation under the Act, constitute beneficial legislation and must, therefore, receive a liberal, purposive, and pragmatic interpretation rather than a narrow or hyper-technical one. Where an accident does not fall within any of the exceptions enumerated in clauses (a) to (e) of the proviso to Section 124-A, the claim is governed by the main body of Section 124-A. The liability under Section 124-A is one of strict or no-fault liability, and once the occurrence of an “untoward incident” within the meaning of the Act, is established, the question as to who was at fault becomes wholly irrelevant (Reference: *Union of India v. Prabhakaran Vijaya Kumar*⁴). In the present case, the respondent has failed to discharge its burden of proving that the injuries sustained by the appellant fall within any of the exceptions carved out under the proviso to Section 124-A of the Act. There is no evidence to suggest that the appellant attempted suicide, committed a criminal act, or was acting in a manner so as to attract any of the said exceptions. The reliance placed on the DRM Report, cannot be said to satisfy the burden cast upon the respondent. Lastly, any minor inconsistency as to the exact fare paid by the appellant is immaterial and cannot be elevated to discredit his claim of bona fide travel, particularly in proceedings governed by beneficial legislation.

⁴ (2008) 9 SCC 527



11. In view of the aforesaid discussion, this Court concurs with the conclusion rendered by the Tribunal that the injuries sustained by the appellant occurred as a result of an “untoward incident” within the meaning of Section 123(c)(2) of the Act. The adverse inferences drawn by the Tribunal against the appellant of “unlawful travel” are based on conjectures and surmises, unsupported by cogent evidence, and are contrary to the settled legal position governing compensation under the Act. Consequently, the impugned judgment dated 09.01.2018 to the aforesaid extent cannot be sustained and is hereby set aside.

12. The injury sustained by the appellant, namely traumatic amputation of the left foot, squarely falls under part III, Entry 24 of the schedule to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. The appellant is, therefore, held entitled to statutory compensation as prescribed thereunder.

13. The accident in the present case having occurred on 25.10.2016, which was prior to the revision of the statutory compensation under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, which came into effect on 01.01.2017, the determination of the quantum shall be governed by the principles laid down by the Supreme Court in *Union of India v. Rina Devi*⁵, wherein it has been held that the claimant is entitled to the higher of the two amounts, namely, the compensation payable as on the date of the accident with interest or the revised amount as on the date of

⁵ (2019) 3 SCC 572



award, in keeping with the beneficial object of the legislation. The relevant extract is as under:

“18....Wherever it is found that the revised amount of applicable compensation as on the date of award of the Tribunal is less than the prescribed amount of compensation as on the date of accident with interest, higher of the two amounts ought to be awarded on the principle of beneficial legislation. Present legislation is certainly a piece of beneficent legislation.”

14. Accordingly, the respondent is directed to release the admissible statutory compensation in favour of the appellant, in terms of the aforesaid principles, within a period of four weeks from the date of this judgment.
15. The present appeal is allowed in the above terms. Pending applications, if any, stand disposed of.

**MANOJ KUMAR OHRI
(JUDGE)**

FEBRUARY 07, 2026/kb