



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

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+ **FAO 95/2018**

RAM PARVESH SINGH & ORSAppellants

Through: Mr. N.K. Gupta, Advocate

versus

UNION OF INDIARespondent

Through: Mr. Raghvendra Shukla, SPC with
Mr. Sampan, Mr. Manu Shukla and
Mr. Anish Sharma, 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 against the judgment dated 21.04.2017 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in OA(Ilu) 147/2015, whereby the claim application filed by the appellants came to be dismissed.
2. The facts in a nutshell are that on 13.04.2015, one *Abhay Kumar Singh* (hereinafter referred to as the "deceased") was travelling from New *Delhi* to *Gaya* by Train No. 12382 (*Poorva* Express), along with his co-passenger *JayNandan Pal*. It was averred that the deceased had purchased a valid second class superfast journey ticket for the said journey and during



the course of the said travel, when the train halted at *Mughalsarai*, the deceased alighted to purchase drinking water and thereafter re-boarded the same train. Owing to heavy rush in the compartment, he was standing near the gate and due to a sudden jerk, he fell from the train and sustained fatal injuries and succumbed to the same.

3. *Vide* the impugned judgment, the Tribunal dismissed the claim application filed by the appellants herein on the ground that the deceased was neither a *bona fide* passenger nor did the alleged incident qualify as an “untoward incident” as defined under the Railways Act, 1989 (hereinafter referred to as the “Act”).

4. Learned counsel for the appellants submits that the Tribunal erred in discarding the testimony of *Jay Nandan Pal*, who had admittedly travelled with the deceased and had specifically deposed regarding the purchase of two tickets at New *Delhi*. It is contended that the Tribunal proceeded on minor discrepancies in his testimony, without appreciating that he was an eye-witness to the deceased’s journey and had specifically deposed regarding the circumstances of the journey. It is submitted that no material was produced by the Railways to establish this alternative version. Reliance is placed on “*Union of India v. Rina Devi*”¹ and “*Lata v. Union of India*”².

5. Learned counsel for the respondent, on the other hand, refutes the aforesaid submissions and submitted that no journey ticket was recovered from the deceased and that the statement of *Jay Nandan Pal* suffers from several discrepancies. It is further submitted that there was no contemporaneous railway record showing that the deceased had fallen from

¹(2019) 3 SCC 572

²2026 SCC OnLine SC 1350



Train No. 12382 and that the deceased, in fact, had attempted to board the moving train at *Mughalsarai* and fell in the process. According to the respondent, the occurrence was thus attributable to the deceased's own negligence and did not constitute an "untoward incident".

6. Coming first to the question whether the deceased was a *bona fide* passenger, the appellants' case is supported by the testimony of a co-passenger, namely, *Jay Nandan Pal*, who stated that he had travelled with the deceased from and had seen the deceased purchase two tickets for the journey. He further stated that the tickets were kept in the deceased's shirt pocket.

7. The Supreme Court in *Rina Devi* (supra) has held that the initial burden of establishing that the deceased was a *bona fide* passenger lies upon the claimant and can be discharged by placing the relevant facts and circumstances on record. The same principle has recently been reiterated in *Lata* (supra). The burden, once discharged, shifts upon the Railways to rebut the same by cogent material.

In the present case, the testimony of *Jay Nandan Pal*, who was examined as AW-2, is not a mere assertion made after the occurrence. He accompanied the deceased from *New Delhi* and categorically deposed regarding the purchase of the two tickets and them being kept in the deceased's shirt pocket, in his presence. The fact that the journey ticket was not subsequently recovered cannot, by itself, displace this evidence, particularly when the appellants' consistent case is that the ticket was lost in the occurrence.

8. The Tribunal, while discarding the testimony of *Jay Nandan Pal*, noticed that he could not state the exact amount for which the tickets were



purchased, questioned why he had handed over the money to the deceased for purchasing the tickets, and also referred to his inability to give particulars regarding his employment and residence in *Delhi*. These circumstances, however, do not go to the root of his statement that he had travelled with the deceased from New *Delhi*.

9. Insofar as the occurrence of the incident is concerned, the Tribunal declined to accept the appellants' case principally on the ground that there was no substantial evidence to establish that the deceased had fallen from the train. However, the material on record does consistently indicate a fall from Train No. 12382. The claim application records the place of occurrence as about 3 kilometres west of *Rafiganj* Station, between Pole Nos. 509/14 and 509/12, and an U.D. Case No. 22/15 was registered at Rail Police Station, *Son Nagar* in respect of the incident. Significantly, the Railway's own investigation report records that the deceased had fallen from Train No. 12382. Thus, the finding of the Tribunal proceeds on the absence of evidence, without considering the material which, on its face, supports the occurrence of a fall from the train.

Even otherwise, the mere fact that the deceased had alighted at *Mughalsarai* and thereafter re-boarded the train would not disentitle him to compensation. The principle laid down in *Rina Devi* (supra) covers even cases of accidental fall while boarding or alighting from a train.

10. It is also pertinent to note that the DRM Report was not filed before the Tribunal. The respondent's own written statement records that the said report was still awaited and that it reserved its right to raise further objections after considering and filing the same. The DRM Report has now been placed before this Court for the first time in the present appeal. Thus,



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the said report could not have formed the basis of the Tribunal's finding. At the same time, having been placed before this Court, its contents have been considered along with the contemporaneous material on record.

Viewed cumulatively, the contemporaneous record, the evidence of the accompanying co-passenger and the Railway's own investigation report support the appellants' case.

11. Accordingly, the impugned judgment is set aside and the matter is remanded back to the Tribunal, which is requested to assess the amount of compensation payable to the appellants in accordance with law and direct the authorities concerned to disburse the same within two months from the receipt of a copy of this order. For this purpose, the matter be listed before the Tribunal at the first instance on 25.09.2026.

12. The appeal is allowed and disposed of in the above terms.

13. A copy of this judgment be communicated to the learned Tribunal.

MANOJ KUMAR OHRI
(JUDGE)

SEPTEMBER 08, 2026

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