



2026:DHC:7713



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

% Reserved on : 02.09.2026
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CNR No. DLHC010094032020

+ **FAO 34/2020**

BABITA & ORS

.....Appellants

Through: Mr. Prashant Kumar Shisodia,
Advocate

versus

UNION OF INDIA

.....Respondent

Through: Mr. Subhash Tanwar, SPC with
Mr. Sandeep Mishra, Mr. Mohit
Kumar Tomar, Mr. Mayank
Sherawat, Mr. Vivek Kumar
and Mr. Keshav, 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 18.10.2019 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in OA(IIu)/2015/GZB/010, whereby the claim application filed by the appellants came to be dismissed.
2. The facts in a nutshell are that on 14.11.2014, one *Vijay Kumar*



(hereinafter referred to as the “deceased”) was returning from *Delhi* to *Ghaziabad* by an EMU train. It was the appellants’ case that, when the train reached Platform No.5 at *Ghaziabad* Railway Station, the deceased was in the process of alighting from the train when, due to a sudden and heavy jerk, he fell from the running train and sustained grievous injuries. He was initially taken to M.M.G. Hospital, *Ghaziabad* and thereafter referred to G.T.B. Hospital, *Shahdara, Delhi*, where he succumbed to his injuries on 26.11.2014. The appellants’ consistent case is that the deceased was carrying a valid journey ticket which was lost in the occurrence.

3. Learned counsel for the appellants submits that the Tribunal erred in holding that the deceased was not a *bona fide* passenger merely because no journey ticket was recovered from his person. It is submitted that the appellants had specifically pleaded that the ticket was lost in the occurrence and that evidence was led in support of the deceased having purchased the ticket before undertaking the journey. It is further submitted that the respondent did not examine any witness and relied only upon the DRM Report. Learned counsel contends that the Tribunal further erred in rejecting the occurrence on the basis of its own assumption that there was no space between the EMU and the platform through which a passenger could fall.

4. Learned counsel for the respondent, on the other hand, submits that no journey ticket was recovered from the deceased. It is further submitted that the Station Master’s memo dated 14.11.2014 records that one person was lying on Platform No.5 after being dashed by a train and that there was no evidence of the deceased having fallen



from the train. Reliance is also placed upon the post-mortem report and the absence of a *panchnama* to contend that the injuries were not established to have resulted from an accidental fall from the train.

5. Coming first to the question whether the deceased was a *bona fide* passenger, the issue is required to be considered in the light of the law laid down by the Supreme Court in “Union of India v. Rina Devi”¹. The Supreme Court has held that mere absence of a ticket with the injured or deceased passenger does not, by itself, negative the *bona fide* status. The initial burden on the claimant can be discharged by placing the relevant facts and circumstances on record, whereafter the burden shifts upon the Railways to rebut the same. The same principle has recently been reiterated in “Lata v. Union of India”², wherein the Supreme Court has further held that the issue is to be examined on the standard of preponderance of probabilities.

Applying the aforesaid principles to the present case, the appellants’ case is not founded merely upon the absence of the journey ticket. Their consistent case, from the claim application through the appeal, has been that the deceased had purchased a valid journey ticket and that the same was lost in the accident. The wife of the deceased, *Smt. Babita*, categorically deposed that the deceased had purchased the ticket and the fact that the ticket was not subsequently recovered from the deceased cannot, in the facts of the present case, be treated as sufficient to displace this evidence. This version is further corroborated by the testimony of *Charan Kumar Thakur*, brother-in-

¹(2019) 3 SCC 572

² 2026 INSC 715



law of the deceased, who stated that he had seen the deceased purchase the railway ticket from the *Delhi* Booking Office before proceeding towards *Ghaziabad*. The fact that the ticket was not subsequently recovered from the deceased, therefore, cannot, in the facts of the present case, be treated as sufficient to displace this evidence. Thus, once the appellants discharged the initial burden by placing their case and evidence on record, the Railways were required to rebut the same by cogent material and has considerably failed in doing so.

6. Coming to the manner of occurrence, the case of the appellants is specific, the deceased was in the process of alighting from the EMU at Platform No.5, *Ghaziabad* Railway Station, when a sudden and heavy jerk caused him to fall from the train. The Tribunal rejected this version principally on the reasoning that the EMU covered the complete edge of the platform and that a person falling from the train could not roll beneath the track. Such reasoning is based on an assumption as to the precise mechanics of the accident, for which there is no evidentiary basis on record. As observed in *Rina Devi* (supra) the Supreme Court has specifically held that an accidental fall while boarding or de-boarding a train would constitute an “untoward incident” within the meaning of Section 123(c)(2) of the Railways Act, 1989 (hereinafter referred to as the “Act”). Thus, the fact that the deceased was in the process of alighting from the train when he suffered the fall is, in itself, sufficient to bring the occurrence within the statutory expression, provided the deceased was otherwise established to be a *bona fide* passenger, which, as noted above, he is.

7. Further, as observed by a Co-ordinate bench of this Court in



“Dharmvir v. Union of India”³, there is no “divine camera” to capture the exact manner in which a railway accident occurs and the Court has to examine the occurrence on the basis of the evidence and surrounding circumstances available on record. A similar view in this regard has been taken by this Court in “Jai Pal & Ors. v. Union of India”⁴, where an injury sustained by a passenger while alighting from a train due to a sudden and heavy jerk was also held to be an “untoward incident”.

8. The Tribunal’s further reliance on the nature of the injuries and the absence of a specific medical opinion that they could have resulted from a fall from the train also does not justify rejection of the claim. The contemporaneous railway record records the deceased having been found at Platform No.5 after the incident, while the DRM inquiry itself considered the occurrence of the deceased falling “while getting down from the train”, though it attributed the same to his alleged negligence. Such negligence, however, cannot take the occurrence outside the ambit of Section 124-A, since Rina Devi(supra) has made it clear that “self-inflicted injury” requires an intentional act and does not include mere negligence. The occurrence is, therefore, held to be an “untoward incident” within the meaning of the Act.

9. 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

³2023 SCC OnLine Del 7279

⁴2022 SCC OnLine Del 4309



2026:DHC:7713



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 30.09.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 09, 2026

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