



2026:DHC:8984



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

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CNR No. DLHCDLHC010298022022
+ **FAO 205/2022**

SH. VIJAY BAHADUR & ORS.Appellants
Through: Mr.Rajan Sood, Ms. Ashima
Sood and Ms. Megha Sood,
Advocates
versus

UNION OF INDIARespondent
Through: Mr. Subhash Tanwar, SPC with
Mr. Mohit Kumar Tomar, Mr.
Mayank Sehrawat, 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 25.02.2022 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/GZB/100/2019.
2. Briefly stated, it is the case of the appellants that the deceased, *Deependra* had come to *Mainpuri* on the occasion of *Raksha Bandhan* and was returning to his place of work, *Anand Vihar*, on 26.08.2018. His father, the appellant, stated that he had purchased a



2026:DHC:8984



ticket for the deceased from *Mainpuri* to *Anand Vihar* and had seen him off at *Mainpuri* Railway Station. The deceased thereafter travelled by Train No.14151 (*Kanpur-AnandVihar* Weekly Express). At about 18:25 hours, information was received by the railway authorities regarding one person having been run over at *Maripat* Railway Station. The train was stopped and the deceased was found dead.

3. The Tribunal framed, inter alia, the issues whether the deceased was a *bona fide* passenger and whether his death was caused in an “untoward incident” as defined in the Railways Act, 1989 (hereinafter referred to as the “Act”) and both the issues were decided against the appellants and the claim application was consequently dismissed.

4. Before this Court, learned counsel for the appellants submits that the Tribunal erred in treating non-recovery of the ticket as sufficient to disbelieve the claim of his *bona fide* travel. It is submitted that the evidence of the deceased’s father, alongwith the contemporaneous railway record, sufficiently establishes that the deceased was travelling by the train in question. It is further submitted that the earliest record of the occurrence records a fall from the train and does not suggest that the deceased had deliberately jumped from it. The subsequent DRM report, prepared much later after the occurrence in question, could not have been preferred over the contemporaneous record, particularly when the Railways could not established any deliberate act on the part of the deceased.

5. Learned counsel for the respondent, while defending the impugned judgment, submitted that no ticket was recovered from the deceased and even his father could not state the train number in his



2026:DHC:8984



cross-examination. It is further submitted that the train had no stoppage at *Maripat* and the escorting GRP personnel had witnessed the deceased attempting to get off the slow moving train.

6. At the outset, the finding regarding *bona fide* passenger status requires consideration in the light of the settled position of law. In “*Union of India v. Rina Devi*”¹, the Supreme Court held that mere absence of a ticket with the deceased does not, by itself, negative his status as a *bona fide* passenger. The initial burden can be discharged by the claimant by placing the relevant facts and attending circumstances on record, whereafter the burden shifts upon the Railways. The aforesaid principle has been reiterated by the Supreme Court in “*Lata v. Union of India*”², wherein the Court held that technical approaches and procedural lapses should not defeat a claim under the Act and that the issue is to be determined on the preponderance of probabilities. More recently, in “*Sukhabhai Nanjibhai Makwana & Anr. v. Union of India*”³, the Supreme Court again held that absence of recovery of the ticket cannot, by itself, defeat a claim where the claimant has discharged the initial burden by evidence on oath and the Railways fail to rebut the same.

7. In the present case, the deceased’s father specifically deposed that the deceased had purchased the ticket for travelling from *Mainpuri* to *Anand Vihar*. The fact that, in cross-examination, he could not state the number of the train or stated that he had not seen

¹(2019) 3 SCC 572

²2026 INSC 715

³2026 INSC 1056



2026:DHC:8984



the deceased boarding the train may be taken into consideration while assessing his testimony, but does not by itself efface his evidence regarding purchase of the ticket. The same has to be considered with the surrounding circumstances and the contemporaneous record which connects the deceased with Train No.14151.

8. The respondent, on the other hand, have not brought on record any cogent material to establish that the deceased was travelling without a ticket. The mere fact that the ticket was not recovered from the deceased, when other personal belongings were recovered, cannot by itself outweigh the evidence led by the claimants. The Tribunal, therefore, was not justified in treating the non-recovery of the ticket as determinative of the issue. On a preponderance of probabilities, the deceased is held to have been a *bona fide* passenger.

9. The next question is whether the incident constituted an “untoward incident”. Section 123(c)(2) of the Act specifically includes the accidental falling of any passenger from a train carrying passengers. The exclusion of such an occurrence from the statutory liability of the Railways must, therefore, be founded on material establishing one of the recognised exceptions under Section 124-A.

10. In the present case, the material relied upon by the Railways does not establish that the deceased had deliberately jumped from the moving train. The statement of Constable *Omveer Singh*, relied upon in the DRM Report, records that the deceased had “fallen down while deboarding”. Even if the said statement is taken at its highest, it establishes an attempt to deboard and the resultant fall, but not a deliberate act of jumping. The fact that the train had no scheduled



2026:DHC:8984



stoppage at *Maripat* cannot, by itself, lead to an inference of such deliberate act.

11. Pertinently, the contemporaneous *Panchnama* prepared on 27.08.2018 records “fall from the train as the cause of death”, and the initial information also records that a person had fallen from Train No.14151. The subsequent DRM Report, prepared much after the occurrence, therefore cannot be treated as sufficient to establish an intention on the part of the deceased which is otherwise not borne out from the contemporaneous record. In such circumstances, the occurrence is required to be viewed as an accidental fall from the train and not as a case of deliberate jumping so as to attract an exception to the statutory liability under Section 124-A of the Act.

12. In view of the above, 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 appellant 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 30.11.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 09, 2026/na