



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

% Reserved on : 06.05.2026
Pronounced on : 11.05.2026
Uploaded on : 11.05.2026

+ **FAO 42/2022**

SURJEET KAUR & ORS.Appellants

Through: Ms. Vijay Laxmi, Advocate

versus

UNION OF INDIARespondent

Through: Mr. Raj Kumar Yadav, SPC for UOI

**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 03.03.2020, passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/DLI/261/2019.
2. Vide the impugned judgment, the Tribunal dismissed the claim primarily on the ground that the incident in question was not an "untoward incident" within the meaning of the Railways Act, 1989 (hereinafter referred to as the "Act") and consequently, did not return any finding on the issue of *bona fide* travel.
3. The brief facts of the case, as set out in the claim application are that *Tara Singh* (hereinafter referred to as the "deceased") was a regular



commuter travelling between *Rohtak* and *Delhi* for business purposes and was holding a valid Monthly Season Ticket (MST) for travel between *Rohtak* and *Delhi*. It was alleged that on 24.02.2016, during the period when railway operations stood disrupted owing to the *Jat* Reservation agitation, the deceased had reached *Rohtak* Railway Station for travelling towards *Delhi*. It was the appellants' case that he tried to board the train but after some time, due to heavy rush in the train, he accidentally fell from the train in the *Rohtak* yard itself, resulting in his death.

4. The Tribunal, however, dismissed the claim application primarily on the ground that no passenger train movement was shown at the relevant time and therefore the appellants had failed to establish that the death occurred in an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of the Railways Act, 1989 (hereinafter referred to as the Act”).

5. Learned counsel appearing on behalf of the appellants contends that the findings recorded by the learned Tribunal are contrary to the contemporaneous material on record. It is submitted that the Tribunal selectively relied upon isolated portions of the DRM/RPF inquiry while completely ignoring the GRP proceedings, inquest report, *jamatalashi* proceedings and the recovery and verification of valid MST and other surrounding circumstances consistently establishing that the deceased had suffered a railway accident while undertaking a railway journey towards *Delhi*. It is further contended that the learned Tribunal wrongly treated absence of a scheduled passenger train entry in the TSR Register as conclusive proof against the appellants.

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



impugned judgment and submits that there was no eyewitness to the occurrence and the inquiry proceedings concluded that the deceased became victim of his own negligence. It is argued that since no passenger train movement was reflected in the TSR Register, the appellants failed to prove occurrence of an untoward incident.

7. This Court has heard learned counsels for the parties and perused the material available on record.

8. The first question which requires consideration is whether the death of the deceased occurred in an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of Act.

9. The Tribunal answered the aforesaid issue against the appellants primarily on the reasoning that no scheduled passenger train movement was reflected in the TSR Register and therefore the version projected by the appellants regarding accidental fall from train could not be accepted. In the considered opinion of this Court, the aforesaid approach is contrary to the material available on record and proceeds upon an unduly narrow appreciation of evidence.

10. The contemporaneous official record itself establishes that the occurrence was a railway accident connected with railway movement. The Station Master memo dated 24.02.2016 records that information had been received from unknown passenger, that one dead body was lying near Line No.03 between Platform Nos.02 and 03 near the Train Lighting Office at *Rohtak* Railway Station. The inquest report prepared by GRP, *Rohtak*, records the place of occurrence as “PF No.2, Line No.3, near Train Lighting Office, Railway Station, *Rohtak*”. The said report further records that the cause of death was injuries suffered in a railway accident and the post-



mortem specifically notes that after examination, “possibility of railway track accident cannot be ruled out as such”. Significantly, the opinion recorded therein further states that “none is to be blamed”. Thus, the contemporaneous GRP proceedings themselves do not support the theory that the deceased was “run over” while crossing the track as a trespasser.

11. The statements recorded during the inquest proceedings, consistently support the occurrence having taken place during the course of railway travel. AW-2, *Gurmeet Singh*, son of the deceased, stated that owing to the *Jat* Reservation agitation, railway operations had remained disrupted and the deceased had accordingly remained stranded in *Delhi* for several days. He further stated that on 24.02.2016, the deceased intended to proceed towards *Delhi* after receiving information that some train movement towards *Delhi* may operate during the night and accordingly reached *Rohtak* Railway Station. *Balbir Singh*, elder son of the deceased, specifically stated that he himself had accompanied the deceased to *Rohtak* Railway Station for travelling towards *Delhi* and several passengers were present at Platform No.02 awaiting train movement. He further stated that after he briefly stepped outside the station on account of a phone call, passengers informed him that one person had fallen after coming out of the train due to push. Similarly, AW-1, *Surjeet Kaur*, widow of the deceased, also consistently stated that the deceased had left home after informing the family that some special train movement towards *Delhi* was expected during the night.

12. The Tribunal, however, failed to appreciate the cumulative evidentiary effect of the said contemporaneous material and instead dissected isolated discrepancies while ignoring the consistent core narrative emerging from all the statements.



13. Even the DRM/RPF inquiry report relied upon by the Railways itself records movement of diesel engine No.12692 through the relevant portion of the station at the relevant time. Thus, the very premise adopted by the learned Tribunal that there was “no train movement” during the relevant period stands contradicted from the railway’s own record. The evidence consistently shows that owing to the agitation and disruption prevailing during the relevant period, passengers were waiting for irregular/special movement towards *Delhi*. Therefore, absence of a scheduled passenger train entry could not have been treated as conclusive proof negating occurrence of a railway accident.

14. What is further important is that neither the DRM inquiry nor the evidence led by the respondent establishes through any direct evidence that the deceased was crossing the railway line or trespassing in the yard area. No eyewitness to such alleged trespass was produced. Neither any loco pilot nor any railway official stated that the deceased was seen walking negligently upon the railway line. The conclusion recorded in the inquiry that the deceased became victim of his “own negligence” is thus purely inferential and unsupported by direct evidence.

15. As per the law laid down in *Union of India v. Prabhakaran Vijaya Kumar & Ors.*¹ and *Jameela v. Union of India*², even negligence or carelessness while boarding/deboarding a train would not amount to a criminal act so as to disentitle the claimant from seeking compensation. In the present case, however, there is absolutely no material whatsoever to bring the occurrence within any of the statutory exceptions contemplated

¹ (2008) 9 SCC 527

² (2010) 12 SCC 443



under the proviso to Section 124-A such as suicide, self-inflicted injury, intoxication, insanity or commission of any criminal act. The railway authorities merely proceeded upon a speculative assumption that the deceased may have suffered injuries due to his own negligence. Such speculative inference could not have been made basis to deny statutory compensation.

16. In view of the aforesaid material, this Court is of the considered opinion that the appellants successfully established that the death of the deceased occurred in an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of the Act.

17. Once the occurrence is held to be an untoward incident, the next issue which arises for consideration is whether the deceased was a *bona fide* passenger at the time of the incident.

18. The answer to the aforesaid issue again emerges from the contemporaneous official record itself. During the *jamatalashi* proceedings conducted by GRP *Rohtak*, a valid MST/pass bearing No.5950625, valid from 20.01.2016 till 19.04.2016, for travel between *Rohtak Jn.* and *Delhi Jn.* was recovered from the person of the deceased along with his identity documents and other belongings. The said MST was subsequently verified by the railway authorities themselves and found genuine.

19. The Tribunal failed to appreciate that once a valid journey authority stood recovered from the person of the deceased and the surrounding circumstances consistently established intended railway travel, the burden shifted upon the Railways to rebut the same. (Ref: *Union of India v. Rina*)



*Devi*³). Except for conjectural suggestions regarding negligence, no material whatsoever was produced by the respondent to disprove *bona fide* travel. The findings recorded by the Tribunal on the aforesaid issues are therefore unsustainable and liable to be set aside.

20. Accordingly, the impugned judgment dated 03.03.2020 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 21.05.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

MAY 11, 2026

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³ (2019) 3 SCC 572