



2026:DHC:8028



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

% Reserved on : 02.09.2026
Pronounced on : 18.09.2026
Uploaded on : 18.09.2026

CNR No. DLHC010005792014

+ **FAO 151/2014**

SIKANDER & ANR.Appellants

Through: Mr. N.K. Gupta, Advocate

versus

UNION OF INDIARespondent

Through: Ms. Pratima N. Lakra, CGSC
with Mr. Shailendra Kumar
Mishra, Ms. Santha Smruthi and
Ms. Ashna Narang, 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 30.01.2014 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/444/2011, titled as "Sikander & Anr. vs. Union of India".

2. The brief facts necessary for adjudication of the present appeal are that on 22.07.2011, the one *Shree Krishan* (hereinafter referred to as the "deceased") was travelling from New Delhi Railway Station to Kanpur Central by Gorakhdham Express. It is the case of the



appellants that the deceased had purchased a journey ticket and was travelling in the general compartment along with his friend. Since the compartment was crowded, they were standing near the entrance of the compartment. When the train reached near *Gangraul* Railway Station, the deceased allegedly fell from the moving train on account of a sudden jerk and jostling of passengers. The deceased was thereafter found dead near the railway track.

3. The Tribunal essentially rejected the claim on two grounds: first, that the appellants had failed to establish that the deceased was a *bona fide* passenger of *Gorakhdham* Express and second, that the evidence did not establish that his death was the result of an accidental fall from the said train. The Tribunal placed considerable reliance upon the non-recovery of the journey ticket, the non-examination of the person stated to have accompanied the deceased, the time of the occurrence, and the circumstance that the deceased was residing at *Gangraul* and used to keep his bicycle at the railway gate.

4. Mr. *Gupta*, learned counsel for the appellants submits that the Tribunal has misplaced itself while discarding the evidence of AW-1 and AW-2. It is submitted that the non-recovery of the journey ticket could not, by itself, lead to a finding that the deceased was not a *bona fide* passenger, particularly when the case of the appellants from the outset has been that the ticket was lost in the accident. It is further submitted that AW-2 had witnessed the deceased falling from an Express train and had immediately informed the railway staff at the nearby railway crossing. Learned counsel submits that the Tribunal erred in treating the difference in the time stated by AW-2 as fatal to



the claim, and also in drawing an inference of “run-over” merely from the fact that the deceased was residing at *Gangraul* and used to keep his bicycle at the railway gate. According to the appellants, there is no positive evidence on record to establish that the deceased was trespassing on the railway track or was run over by another train.

5. Ms. *Lakra*, learned counsel for the respondent, on the other hand, contended that no journey ticket was recovered from the deceased and, therefore, the claim that he was travelling as a *bona fide* passenger remains unsubstantiated. It is further contended that the person who was allegedly accompanying the deceased and who, according to the appellants, had witnessed the fall was neither named in the claim petition nor examined before the Tribunal. AW-2 is stated to be unreliable, particularly as he claimed to have witnessed the occurrence at about midnight whereas the TSR records that Train No. 2556 reached *Gangraul* at 22:45 hours and left at 22:46 hours. Learned counsel further submits that the deceased was residing at *Gangraul* and was known to keep his bicycle at the railway gate, and thus the possibility of his being near the railway track and being run over by some train could not be excluded.

6. After hearing the contentions raised by the learned counsels, the first question to be taken up for consideration, therefore, is whether the deceased was a *bona fide* passenger at the relevant time. The mere fact that the journey ticket was not recovered cannot, by itself, conclude this issue against the appellants. The Supreme Court in Union of India



v. Rina Devi¹ has held that mere absence or non-recovery of a ticket from an injured or deceased passenger does not, by itself, negative the claim of *bona fide* passenger. The initial burden on the claimant can be discharged by placing the relevant facts and attending circumstances on record, whereafter the burden shifts on the Railways to rebut the same. The same principle has also been recently reiterated in “Lata v. Union of India”²

In the present case, the appellants’ case regarding the journey has remained consistent. *Sikander*/AW-1, son of the deceased, in his affidavit, categorically deposed that the deceased had left for *Kanpur* and had purchased a ticket from New *Delhi* Railway Station. It was specifically pleaded that the ticket was lost after the deceased fell from the train. Thus, this is not a case where the appellants have introduced the journey merely after the death of the deceased without any surrounding circumstances. The fact that the ticket itself could not subsequently be produced has to be considered in the background of the very manner in which the death is stated to have occurred.

7. The Tribunal, while noticing the evidence of AW-1, placed substantial emphasis on the fact that the friend who was allegedly travelling with the deceased was not examined. That circumstance may require the evidence to be examined with due care, but it does not, in the facts of the present case, justify rejecting the claim of *bona fide* passenger altogether. More importantly, the respondent failed to produce any evidence to rebut the claims raised by the appellants. The

¹(2019) 3 SCC 572

²2026 SCC OnLine SC 1350



absence of the ticket, therefore, could not have been treated as conclusive against the appellants.

8. The next question is whether the death of the deceased occurred in an “untoward incident” as defined in the Railways Act, 1989 (hereinafter referred to as the “Act”). In this regard, the Tribunal placed considerable reliance on the evidence of *Ram Prakash/AW-2*. He stated that he was present in his fields near the *Gangraul* Railway Station and had seen a man “fall from an Express train coming from the *Delhi* side and going towards the *Aligarh* side”. He further stated that he informed the railway staff present at the nearby *phatak* and on the following morning, he saw people gathered near the railway track where the dead body was lying and thereafter informed the police that the man “had fallen from an Express train”.

9. The Tribunal disbelieved this part of the testimony principally because *AW-2* stated the time of the occurrence to be around midnight, whereas the TSR showed that Train No. 2556 reached *Gangraul* at 22:45 hours and departed at 22:46 hours. This discrepancy, in the opinion of this Court, is insignificant considering that the timings stated are during the night time itself. His evidence was that he had seen a person “fall from an Express train” coming from the *Delhi* side and the subsequent identification of the train as *Gorakhdham* Express was based on the circumstances of the case.

10. The Station Master’s memo records that an unidentified dead body was found between *Chola* and *Gangraul* at KM 1386/26-28 and states that it “may be due to fall from some train”. The Tribunal was correct in observing that this wording does not amount to an admission



by the Railway that the deceased had fallen from *Gorakhdham* Express. It merely records the position in which the body was found and the possible cause. The document, therefore, has to be considered, keeping in mind the principle of the concerned legislation along with the other circumstances and cannot be read as conclusively supporting either version.

11. There is another circumstance which, in this Court's view, assumes importance. The Tribunal inferred that the deceased may have been run over by some train because he was residing at *Gangraul* and used to keep his bicycle at the railway gate. The material on record does establish that the deceased's bicycle was kept at the gate and that its key was subsequently collected by AW-1 from the gate man. But from this circumstance alone, it cannot follow that the deceased was on or near the railway track for some purpose unrelated to his journey. The distinction is important because the Tribunal proceeded from the possibility of a run-over to rejection of the positive case set up by the appellants. There is, however, no witness who states that the deceased was seen walking on the railway track and there is no material identifying any other train as the train which may have caused the death, however, to the contrary, there is an eye witness who saw the deceased fall from the train.

12. Likewise, the fact that the dead body was found only on the following morning cannot, by itself, rule out an accidental fall during the preceding night. A Co-ordinate bench of this Court in "Sh.



Surendra Prasad Verma &Anr. v. Union of India³, has held that delay in discovery of the dead body, by itself, is not sufficient to reject a case of accidental fall. The relevant question is whether there is positive material on record which makes the alleged fall impossible or establishes another manner of death. In the present case, no such positive material has been brought on record.

13. On a cumulative consideration of the evidence, when considered as a whole, therefore establishes that the deceased was a *bona fide* passenger and that his death occurred in an accidental fall from the train, constituting an “untoward incident” within the meaning of Sections 123(c) and 124-A of the Act.

14. 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 15.10.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 18, 2026

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³2014 SCC OnLine Del 2917