



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

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+ **FAO 225/2022**

SMT REKHA & ORS.

.....Appellants

Through: Mr. Rajan Sood, Ms. Ashima Sood
and Ms. Megha Sood, Advocates

versus

UNION OF INDIA

.....Respondent

Through: Mr. Ranvir Singh, SPC with Mr.
Vikas Kumar Singh, Advocate

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 16.03.2022 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(U)/898/2021, titled as "*Rekha & ors. vs. Union of India*".

2. 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 was the alleged incident an "untoward incident" as defined under the Railways Act, 1989 (hereinafter referred to as the "Act").

3. The brief facts, as stated in the claim application, are that on



12.02.2012, one Sh. *Ajay Kumar* (hereinafter referred to as the “deceased”), after purchasing a valid journey ticket, was travelling from *Somna* to *Shahdara*. It is the case of the appellants that the deceased accidentally fell from the running train near *Vivek Vihar* Station, and sustained fatal injuries, as a result of which he died on spot.

4. Learned counsel for the appellants assails the impugned judgment by contending that the Tribunal has erred in disregarding the contemporaneous material on record, which clearly establishes that the deceased sustained fatal injuries in a railway accident. It is submitted that the DD entries, inquest report, *Naksha Moka* and post-mortem report consistently describe the occurrence as a “train accident” and there is no material to support the theory that the deceased was “run-over” while crossing the railway track. It is further submitted that the Tribunal has wrongly rejected the journey ticket merely on the ground that it was not reflected in the *jamatalashi*. It is also contended that the reliance placed on the DRM report is misplaced, as the same is based on assumptions, and was prepared after an inordinate delay.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment by contending that no journey ticket was recovered during the personal search of the deceased and, therefore, the deceased cannot be treated as a *bona fide* passenger. It is further submitted that the DRM report concludes that the deceased was crossing the railway track and was run over by a train, and thus the incident does not fall within the ambit of an “untoward incident”.

6. This Court has heard the learned counsel for the parties and perused the material on record.

7. In the backdrop of the above facts, the two issues that arise for



consideration are whether the incident in question constitutes an “untoward incident” within the meaning of the Act and whether the deceased was a *bona fide* passenger.

8. Coming first to the manner of occurrence, the contemporaneous evidence on record lends support to the appellants’ version. The earliest information, as reflected in DD No. 11PP records that a person was found injured near the railway track in the vicinity of *Vivek Vihar* Railway Station. The said entry does not attribute the incident to “crossing of the railway track” or to any specific train. More importantly, DD No. 13PP, recorded after the Investigating Officer reached the spot, notes that the deceased was found “lying near the railway track” with multiple injuries and records the cause as a “train accident”. The inquest report prepared at the spot also describes the occurrence as a “railway accident” and does not record any finding that the deceased was crossing the railway track. Furthermore, the position of the body, as depicted in the *Naksha Moka*, is along the track and not across it.

9. The Tribunal has, however, relied upon the DRM report to conclude that the deceased was crossing the railway track and was run over by a train. A perusal of the record shows that the DRM inquiry was initiated on 07.07.2016, i.e., after an inordinate delay of about 52 months from the date of the incident, and was submitted on 26.11.2021, i.e., after a delay of about 117 months. Such a belated inquiry, conducted long after the occurrence and even after institution of the claim proceedings, lacks contemporaneous basis and cannot be accorded due evidentiary value. The conclusion that the deceased was crossing the track is thus purely inferential in nature and stands in contradiction with the material placed on record, which



consistently describes the incident as a “train accident”. The aspect of belated filing of a DRM report has been commented upon by this Court in “Bhola vs. Union of India”¹, the relevant extracts wherefrom are as under:

“2. There is a delay of 14 months in submitting the DRM Report...

4. The claim petition was filed on 27.07.2014, the DRM Inquiry was initiated thereafter and a report was filed 7 months later. The delay in initiating an inquiry is fatal to the facts of the case because what essentially needs to be gathered is what happened on the date of accident. The medical reports and the police records show that an accident happened on 08.10.2012 and the cause of the accident was, the appellant having been fallen from a moving train. The DRM Report does not address any of these aspects. On the contrary it says that since no ticket was produced to support the claim of the appellant, of him being a bona fide passenger, therefore by conjecture, he could have well suffered a self-inflicted injury while crossing the railway tracks. Reliance was placed upon the judgment of the Supreme Court in Kalandi Charan Sahoo and Anr. vs. General Manager, South-East Central Railways, Bilaspur in Civil Appeal No. 5608/2017.”

10. The Tribunal has, therefore, erred in placing reliance on the DRM report while disregarding the primary evidence on record. Once it is established from the contemporaneous material that the deceased sustained fatal injuries in a railway accident, the incident would fall within the definition of an “untoward incident” under the Act, unless the case falls within any of the statutory exceptions, none of which have been proved in the present case.

11. Insofar as the issue of *bona fide* travel is concerned, it is borne out from the record that the appellants have placed on record the journey ticket bearing No. AC-97913667 dated 12.02.2012, corresponding to the date and

¹ (2018) SCC OnLine Del 13486



route of travel of the deceased from *Somna* to *Delhi Shahdara*. The said ticket, having been produced on the same day by the family of the deceased, has not been disputed by the respondent as being fabricated or invalid. The Tribunal has, however, discarded the same solely on the ground that its recovery was not reflected in the inquest report or *jamatalashi*.

12. In the opinion of this Court, such an approach is untenable, as there is no statutory requirement under the Act governing the manner of recovery or documentation of a journey ticket, and the absence of its mention in the inquest proceedings cannot, by itself, be treated as conclusive to disbelieve the existence of a valid ticket, particularly when the same stands placed on record and remains unrebutted.

13. The issue is also no longer *res integra* in view of the judgment of the Hon'ble Supreme Court in "*Union of India vs. Rina Devi*"², wherein it has been held that the initial burden on the claimant to establish *bona fide* travel can be discharged by filing an affidavit along with relevant material, whereupon, the burden shifts on the Railways to rebut the same. In the present case, the appellants have discharged this initial burden by producing the ticket on the same day and placing it on record, and further supporting the same by duly placing an affidavit. The respondent has failed to disprove the veracity of the ticket or to establish that the deceased was not travelling by train. In the absence of any rebuttal, the presumption arising in favour of the appellants remains intact, and the deceased is liable to be treated as a *bona fide* passenger.

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

² (2019) 3 SCC 572



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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 11.05.2026.

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

APRIL 25, 2026

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