



2026:DHC:8519



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

% Reserved on : 14.09.2026
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CNR No. DLHC010099932022

+ **FAO 60/2022**

SMT. MAMTA

.....Appellant

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

versus

UNION OF INDIA

.....Respondent

Through: Mr. Jagdish Chandra, CGSC
with Ms. Aishwarya Sinha, Ms.
Manya Saxena and Mr. Lakshay
Kumar, 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 27.08.2021 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the "Tribunal") in OA(IIu)/GZB/313/2016 whereby the claim application preferred by the appellant seeking compensation on account of the death of her husband came to be dismissed.



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2. The brief facts necessary for the adjudication of the present appeal are that on 11.12.2015, one *Dheer Singh* (hereinafter referred to the “deceased”) was travelling from *Hapur Junction* to *Delhi* by Train No. 14043 (*Garhwal Express*). It has been further averred that the train was overcrowded and, on account of jostling of passengers and a sudden jerk, the deceased fell from the train near Gate No.74, *Delhi Fatak, Hapur*. His left leg was severed and he sustained serious injuries, whereafter he was taken to Government Hospital, *Hapur*, where he succumbed to his injuries during treatment.

3. The Tribunal, after considering the evidence as well as the contemporaneous record, ultimately rejected the appellants’ case. It relied upon the fact that no ticket was recovered from the person of the deceased and that the body was found in the middle of the Up line, the nature of the injuries and the subsequent police report which stated that the deceased had got entangled with a train. It concluded that the deceased was not proved to be a *bona fide* passenger and that the injuries and location of the body made the version of an accidental fall from *Garhwal Express* to be improbable.

4. Before this Court, learned counsel for the appellants has assailed the impugned judgment stating that the Tribunal has treated the non-recovery of the journey ticket as conclusive, contrary to the settled position of law. It is submitted that the appellant’s evidence that the deceased had left for *Delhi* by train, coupled with the contemporaneous railway and police records, was sufficient to discharge the initial burden of establishing *bona fide* passenger status. It is further submitted that the respondent failed to produce any



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independent evidence to establish that the deceased was not travelling by train. Learned counsel further pointed out that the earliest contemporaneous record specifically records that a person had fallen from *Garhwal Express*. Reliance is placed upon the decisions in “*Union of India v. Rina Devi*”¹ and “*Lata v. Union of India*”².

5. *Per contra*, learned counsel for the respondent, while refuting the aforesaid submissions, stated that the journey ticket was not recovered and the appellant herself gave an unsatisfactory explanation regarding the ticket. It was further contended that the injuries recorded in the *Panchayatnama* and post-mortem report, particularly the amputation and crushing injuries, are more consistent with the deceased having come under a train while on the track. The respondent also relies upon the police report, according to which the deceased had got entangled with a train, as well as the reference to his being a habitual alcoholic.

6. Having considered the rival submissions and the material on record, the first question to be taken up for consideration is that whether the deceased was a *bona fide* passenger.

7. Section 2(29) of the Railways Act, 1989 (hereinafter referred to as the “Act”) defines a “passenger” as a person travelling with a valid pass or ticket. Thus, the relevant question is whether, on the basis of the evidence and attending circumstances, it can reasonably be concluded that the deceased was travelling by train as a passenger. The requirement of a ticket cannot, however, be applied mechanically,

¹ (2019) 3 SCC 572

² 2026 SCC OnLine SC 1350



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particularly where the passenger has died in the course of the alleged railway accident and the ticket is not available for production. The settled position is that mere non-recovery of a railway ticket from a deceased passenger is not sufficient, by itself, to reject the claim. In Rina Devi (supra), the Supreme Court held that the initial burden can be discharged by placing the relevant facts and attending circumstances on record, whereafter the burden shifts upon the Railways to rebut the same by cogent evidence. The Supreme Court has recently reiterated this position in Lata (supra) and “Sukhabhai Nanjibhai Makwana & Anr. v. Union of India”³. This Court has also consistently applied the same principle in cases where the ticket was not recovered.

In the present case, the evidence cannot be viewed merely from the perspective of whether the ticket was recovered from the body. Smt. Mamta/AW-1, in her deposition, had clearly stated that the deceased had left his house at about 7:00-7:30 p.m. for Delhi and had informed her that he would travel by train. Though the ticket was not recovered and the appellant was unable to state in cross-examination where the same was, such non-recovery, by itself, cannot displace the other circumstances pointing towards the deceased having undertaken the journey by train. The initial burden having been discharged from the attending circumstances, the onus shifted upon the Railways, which was required to establish by cogent evidence that the deceased was not travelling as a passenger. In the absence of such evidence and in view of the beneficial nature of the legislation as well as the settled

³(2026) INSC 1056



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position of law in this regard, the Tribunal was not justified in treating the non-recovery of the ticket as determinative of the issue of *bona fide* passenger status.

8. The next question is whether the death resulted from an “untoward incident” as defined in the Act.

9. At about 22:15 hours, the Power Cabin, *Hapur* informed that an injured person was lying at Gate No.74 Special on the Up line. The information had been given by one *Brahamjeet Sharma*, the Gateman of Gate 74, who also informed the ambulance. The Station Superintendent thereafter issued the requisite Memo. GD No.17 of the GRP, recorded on 11.12.2015, specifically records that the Control Room informed over RT set that a person had “fallen from *Garhwal Express*” and was seriously injured, had one leg cut and had been admitted to Government Hospital, *Hapur*, where he died during treatment. The subsequent *Panchayatnama* also records the cause of death as a train accident. The post-mortem report records the body to be in two pieces, a lacerated wound on the skull, crushed injuries to the left thigh with the left leg separated above the knee and fracture of the right thigh. These injuries undoubtedly establish the severity of the railway accident, however, they do not, establish by themselves whether the deceased first fell from a moving train or whether he was already upon the track and was thereafter run over or entangled by another train. No medical opinion in this regard has been placed on record stating that the injuries were incompatible with an accidental fall from the train.

10. The Tribunal also proceeded on the premise that if the deceased



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had fallen from a train running on the Up line, his body could not have come to lie in the middle of the same line. This conclusion, however, is neither borne out by any medical or other evidence on record, nor there is any material to show that the injuries suffered by the deceased or the position in which the body was found were inconsistent with a fall from a moving train. The Tribunal, therefore, could not have ruled out the possibility of an accidental fall merely on the basis of its own assumption as to where the body ought to have been found.

11. The subsequent police report also does not provide direct evidence of the manner of occurrence. SI *Somveer Singh*'s report states that the deceased was a habitual alcoholic and had got entangled with a train near Gate No.74, however, he was not examined as a witness. *Sarvej Khan*, who was examined as RW-1, merely identified the handwriting and signatures of SI *Somveer Singh* on the *Panchayatnama* after the original police record had been weeded out. He was not an eyewitness to the occurrence and thus, the police report may be considered as part of the record, but its conclusion regarding the manner of the accident cannot be elevated to the status of direct evidence. The reference to the deceased as a habitual alcoholic is also insufficient to bring the case within any exception to Section 124-A of the Act. There is no medical or scientific evidence demonstrating that the deceased was intoxicated at the time of the incident or that such intoxication had any nexus with the accident. The mere description of a person as a habitual alcoholic is materially different from proof of intoxication at the relevant time.

The approach adopted by this Court in “*Mohd. Ubaid v. Union*



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of India”⁴, is also instructive in this regard, wherein it was held that in the absence of any scientific or medical evidence, such as a blood alcohol test or contemporaneous medical assessment demonstrating a state of intoxication, the benefit of doubt must necessarily lie in favour of the claimant.

12. Lastly, on one side is the contemporaneous railway and GRP record, including GD No.17, which records information of a person having fallen from *Garhwal* Express, followed by the discovery of the injured person at Gate No.74 and the subsequent *Panchayatnama* recording a train accident. On the other side, the theory of the deceased having been run over while crossing the track is founded principally upon the location of the body, the nature of the injuries and the subsequent police conclusion of entanglement. There is no eyewitness who saw the deceased crossing the track, no witness who saw him being struck by an unidentified train and no material identifying the train which allegedly caused the run-over. The latter theory, therefore, remains an inference and cannot displace the contemporaneous version merely because the precise mechanics of the fall cannot now be reconstructed.

13. The appellants have, thus, in the opinion of this Court, established, on a preponderance of probabilities, that the deceased was a *bona fide* passenger and that he sustained fatal injuries in an accidental fall from *Garhwal* Express, constituting an untoward incident under Section 123(c)(2) of the Act.

14. Accordingly, the impugned judgment is set aside and the matter

⁴(2026) SCC OnLine Del 3239



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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 04.11.2026.

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 29, 2026

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