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

CNR No. DLHC010393642024

+ **FAO 216/2024**

SHANTI DEVI

.....Appellant

Through: Mr. Rajan Sood, Ms. Ashima Sood,
Ms. Meghna Sood, Advocates.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Kushagra Kumar, SPC with Mr.
Pankaj Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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09.09.2026

CM APPL. 61000/2026 (early hearing by appellant)

1. By way of the present application, the applicant/appellant seeks preponement of the date of hearing.
2. In view of the reasons stated therein and considering that the connected appeal, being *FAO 211/2024*, titled “*Jawahar Lal & Anr. v. Union of India*” arising out of the same incident, has already been decided by this Court *vide* judgment dated 24.08.2026, the application is allowed and the appeal is taken up for hearing today itself. The already scheduled date of 19.11.2026 stands cancelled.
3. The application stands disposed of.

FAO 216/2024

1. The present appeal has been preferred under Section 23 of the Railway Claims Tribunal Act, 1987, assailing the judgment dated 24.02.2023 passed by the Railway Claims Tribunal, Principal Bench, Delhi



in OA/II(u)/DLI/143/2020, whereby the claim petition filed by the appellant seeking compensation on account of the death of her son, *Pintu* (hereinafter referred to as the “deceased”) came to be dismissed.

2. The case of the appellants, in brief, is that the deceased, on 09.06.2019, along with other persons, was travelling from *Kanpur Central* to *Surat* by Train No. 19038(*Awadh Assam Express*). It is averred that the deceased was travelling on strength of a valid journey ticket and during the course of the travel, when the train stopped at *Balrai* Railway Station on 10.06.2019, the deceased and the other persons were made to disembark from the off-side of the train by the TTE, whereafter they fell on the wrong side and were run over by *Rajdhani Express*, which was passing through the adjacent track.

3. Learned counsel for the appellants submitted that the evidence of AW-2/*Neelu Devi* and AW-3/*Rohit*, who were travelling in the same train, has not been properly appreciated. It is contended that merely because the deceased was ultimately found on the track side and was run over by Train No. 12313, *Rajdhani Express*, the incident could not have been treated as falling outside Section 123(c) of the Act. Reliance has been placed upon the decisions of the Supreme Court in “*Union of India v. Rina Devi*¹” and “*Union of India v. Prabhakaran Vijaya Kumar*²”.

4. Learned counsel for the respondent, on the other hand, supports the impugned judgment. It is submitted that the deceased and the other passengers had got down from the side opposite to the platform at *Balrai* Station and had thereafter come onto the railway track. Learned counsel

¹ (2019) 3 SCC 572

² (2008) 9 SCC 527



relies upon the *panchnama*, the statements recorded during the DRM enquiry and the statement of the Loco Pilot of Train No. 12313, to submit that the deceased was seen walking along the railway track before being run over by *Rajdhani Express*.

5. At the outset, it is not in dispute that the deceased was a *bona fide* passenger. The Tribunal itself has returned a finding in favour of the claimants on this aspect and the record also establishes that the deceased had purchased a valid ticket for travelling from *Kanpur* to *Surat* and was travelling in *AwadhAssam Express*. The said finding has not been challenged by the respondent and has, therefore, attained finality.

6. The controversy in the present appeal is, therefore, confined to the issue as to whether the appellant died in an “untoward incident” within the meaning of the Act.

7. A perusal of the record would show that the respondent/Railways, relying principally upon the DRM report, contend that the deceased had come out of the train from the wrong side and was thereafter walking on the Up Main Line. The question, however, is whether this conclusion regarding the manner in which he reached the track is sufficiently established from the evidence on record.

8. The appellant’s specific case is that the deceased and the other passengers had boarded a reserved compartment instead of the general compartment and that, at *Balrai Station*, the TTE had pushed them, as a result of which they fell on the wrong side of the train. The Tribunal has noticed the statements of the co-passengers in this regard. While AW-2 *Neelu Devi* stated that the TTE had pushed the deceased, AW-3 *Rohit* stated that the passengers were pushed out by the TTE. Thus, though



the statements are not identical as to the precise manner in which each passenger came out of the train, both accounts have to be appreciated in the context of the common version that the passengers had been asked to leave/change their coach.

9. On the other hand, the statement of RW-1/Sh. *Dharmendra Kumar Tripathi*, the Loco Pilot of Train No.12313, only establishes that the deceased persons were present on the track and were run over. Similarly, CW-1/Sh. *Sunil Kumar*, the TTE, has not stated that he had witnessed the deceased voluntarily deboarding from the “off-side” and thereafter walking towards or upon the railway track. The DRM report, therefore, insofar as it proceeds to draw such a conclusion, cannot be regarded as conclusively establishing the manner in which the deceased came to be on the track.

10. At this stage, it is also relevant that the four claim cases before the Tribunal arose from the same occurrence and were being considered together, with OA/II(u)/DLI/285/2019, *Jawahar Lal v. Union of India*, being treated as the main case. The appeal arising therefrom, being FAO 211/2024, has since been decided by this Court *vide* judgment dated 24.08.2026. The conclusion reached therein, on the material relating to the same occurrence, is also consistent with the view taken above.

11. The inconsistencies in the evidence may create doubt regarding the precise manner in which the passengers came out of the train, but cannot be used to conclusively hold that the deceased had “voluntarily gone upon” the track. In this regard, reference is made to the decision of the *Punjab and Haryana High Court* in “*Gyasu And Anr. v. Divisonal Railway Manager And Anr.*” wherein, while considering the contention of the Railways that



the deceased had deboarded from the wrong side and thereafter crossed the railway track, this Court observed as under:

“The deceased could de-board on alleged wrong side of the platform only if there was an excess to de-board the train from the other side. Even if the deceased was negligent in de-boarding the train from wrong side or got entangled in railway accident while crossing the track, it is difficult to accept contention of the respondents that she died or suffered injuries due to her own criminal act.”

12. In the facts of the present case, therefore, the fact that the deceased was run over by Train No.12313 is established, whereas the further conclusion that he had “voluntarily deboarded” from the off-side and thereafter walked along the track is not established by cogent evidence. The finding of the Tribunal is accordingly set aside and the death of the deceased is held to have occurred in an “untoward incident” within the meaning of Section 123(c) of the Act.

13. 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 06.10.2026.

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

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

MANOJ KUMAR OHRI, J

SEPTEMBER 9, 2026/kk