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

# **CNR No. DLHC010439082026**

+ **FAO 297/2026**

**RAKESH & ANR**

.....Appellants

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

versus

**UNION OF INDIA**

.....Respondent

Through: Mr. Animesh Rastogi, SPC, Ms. Neha  
Rastogi and Mr. Rajat Dubey,  
Advocates

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

% **16.09.2026**

**CM APPL. 63097/2026 (exemption)**

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

**FAO 297/2026**

1. By way of present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellants seek setting aside of the order and judgment dated 23.07.2026 passed by the Railway Claims Tribunal, Delhi in Claim Application bearing No. OA/II(U)/DLI/946/2025 whereby the claim application filed by the appellants came to be dismissed.
2. Issue notice.
3. Notice is accepted by learned counsel for the respondent.
4. With the consent of both the parties, the arguments in the appeal have been heard and the Court shall now take up the appeal for consideration.
5. The brief facts necessary for the adjudication of the appeal are that on 28.11.2024, one *Pradip* (hereinafter referred to as the “deceased”) was travelling from *Shahjahanpur* to *Delhi* by train. It was averred that during



the course of the journey, the deceased accidentally fell from the running train near *Delhi Shahdara* Railway Station and sustained fatal injuries. The journey ticket was recovered during the *jamatalashi* and was subsequently verified by the Railway authorities. The deceased was taken to GTB Hospital, where he was declared brought dead.

6. Learned counsel for the appellants submits that the Tribunal erred in rejecting the claim despite the journey ticket having been recovered from the deceased and verified by the Railway authorities. It is submitted that the contemporaneous police, medical and railway records support the occurrence and that the Tribunal erred in drawing an inference of a “run-over” merely from the nature of injuries sustained by the deceased. It is further submitted that the DRM inquiry was initiated after considerable delay and, therefore, its subsequent conclusions could not displace the contemporaneous record.

7. Learned counsel for the respondent, on the other hand, contends that the nature and location of the injuries establish that the deceased was “run-over” by the train and had not fallen therefrom. It is further submitted that the DRM inquiry supports the case of the Railways and that the deceased cannot be treated as a *bona fide* passenger merely on the basis of the material relied upon by the appellants.

8. Insofar as the question of the deceased being a *bona fide* passenger is concerned, the record shows that the journey ticket was recovered from the deceased during *jamatalashi* and was thereafter verified by the Railway authorities. Thus, the appellants have placed material on record supporting their assertion that the deceased was travelling by train in the course of the journey in question.



9. In this regard, a gainful reference may be made to the decision of the Supreme Court in “Union of India v. Rina Devi”<sup>1</sup> and to the subsequent decision in “Lata v. Union of India”<sup>2</sup>, wherein it was held that the initial burden upon the claimant to establish that the deceased was a *bona fide* passenger can be discharged by placing the foundational facts on record. In the present case, the recovery and verification of the journey ticket discharge such initial burden. The Railways have failed to rebut the aforesaid fact and the factum of recovery and verification of the ticket, in the absence of any cogent material to the contrary, cannot be brushed aside.

10. The next question is whether the death of the deceased occurred in an “untoward incident”. On this aspect, the Tribunal principally relied upon the nature of the injuries and the position of the body to conclude that the deceased had been “run-over” by the train. However, the nature of the injuries by itself cannot be treated as conclusive of the manner in which the deceased came in contact with the train. The possibility of a passenger first falling from a moving train and thereafter coming under the wheels cannot be excluded merely on the basis of the injuries noticed on the body.

11. More importantly, there is no independent eyewitness or other cogent evidence on record establishing that the deceased was trespassing upon the railway track or had otherwise come in front of the train in circumstances falling outside the scope of an “untoward incident”. The contemporaneous material, including the recovery of the journey ticket, has to be considered while determining the manner of occurrence. Merely because the exact manner in which the deceased came in contact with the train could not be

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<sup>1</sup> (2019) 3 SCC 572

<sup>2</sup> 2026 SCC OnLine SC 1350



established, the same cannot lead to an inference that the deceased was a trespasser or that the occurrence was not an accidental fall from the train.

12. Additionally, the delay in the DRM inquiry assumes significance in the facts of the present case. The incident took place on 28.11.2024, whereas the DRM inquiry was initiated only on 07.01.2026 and the report was submitted on 16.02.2026, i.e. more than a year after the incident. This Court, in “*Bhola v. Union of India*”<sup>3</sup>, has observed that delay in initiating an inquiry is material since what is required to be ascertained is what transpired on the date of the accident. A belated inquiry, particularly when it is not supported by contemporaneous railway records, cannot be permitted to displace the material which was available proximate to the occurrence. The DRM report, therefore, cannot, by itself, override the contemporaneous record.

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 16.10.2026.

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 16, 2026/rd**

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<sup>3</sup> 2018 SCC OnLine Del 13486