



2026:DHC:7207



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

% Reserved on : 20.07.2026
Pronounced on : 25.08.2026
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+ **FAO 97/2017**

NITU KUMARI

.....Appellant

Through: Mr. Vikas, Advocate for the
Appellant

versus

UNION OF INDIA

.....Respondent

Through: Mr. Ashish K. Dixit, CGSC
with Mr. Umar Hashmi, Ms.
Iqra Sheikh and Mr. Gautam
Yadav, 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 23.07.2015 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/220/2012.

2. Briefly stated, the case of the appellant is that on 30.04.2012, one *Vikash Kumar* (hereinafter referred to as the “deceased”) was travelling from *Bakhtiyarpur* Junction to *Anand Vihar, Delhi* by Train No.12367 (UP *Vikramshila* Express). It was averred that the deceased was travelling on a valid second-class journey ticket purchased by his



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brother-in-law and that owing to heavy rush in the general compartment, the deceased was standing near the gate when he accidentally fell from the running train and suffered fatal injuries.

3. Learned counsel for the appellant contended that AW-2/*Dailu Kumar* had specifically deposed that he had purchased the journey ticket for the deceased at *Bakhtiyarpur* and had handed it over to him. The ticket, according to the appellant, was lost during the incident. Learned counsel further submitted that the Tribunal erred in drawing an adverse inference merely because the journey ticket was not recovered from the deceased. It was pointed out that the deceased had suffered extensive injuries and that only an LIC premium receipt was recovered during the personal search. It was also submitted that there was no eyewitness to every railway accident and the absence of an eyewitness could not, by itself, defeat a claim where the surrounding circumstances and official record supported the occurrence.

4. Learned counsel for the respondent, refuted the aforesaid and contended that the appellant had failed to establish that the deceased was travelling with a valid journey ticket. Reliance was also placed upon the injuries noticed in the inquest and post-mortem reports to contend that the deceased had more probably been “run over” than fallen from the train.

5. At the outset, it is pertinent to note that the Supreme Court in “*Lata v. Union of India*”¹, has recently reiterated that the provisions relating to compensation under the Railways Act, 1989 (hereinafter

¹2026 SCC OnLine SC 1350



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referred to as the “Act”) are to receive a liberal and purposive construction and that mere non-recovery of a ticket cannot, by itself, negate the status of a *bona fide* passenger. The initial burden upon the claimant is to place the foundational facts relating to the journey and the occurrence and once that burden is discharged, the evidentiary burden shifts to the Railways. The same principle was earlier laid down in “Union of India v. Rina Devi”².

6. On this aspect, the appellant’s case is quite specific. It is not merely stated that the deceased was a passenger of some train. The statement of the brother-in-law of the deceased, *Dailu Kumar*/AW-2 assumes significance, wherein he has categorically stated that he had accompanied the deceased to the *Bakhtiyarpur* Jn., purchased the second-class superfast ticket for the deceased’s travel and handed it over to the deceased, who, thereafter boarded the *Vikramshila* Express Train in his presence.

More importantly, the said deposition is not standing alone, as the police papers forming part of the record also refer to *Dailu Kumar* and record that he had purchased the railway ticket for the deceased and had seen him board the train. Thus, the fact that AW-2’s evidence came after some delay cannot be treated as sufficient, by itself, to erase the contemporaneous material which substantially supports his version.

7. Pertinently, the present claim arises under a beneficial legislation and the evidence on record, therefore, cannot be examined with an unduly technical approach. Minor discrepancies or delay in

²(2019) 3 SCC 572



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recording statements, particularly when they do not go to the root of the appellant's case, cannot by themselves displace the substantive evidence regarding the deceased's journey. In the present case, the appellant discharged the initial burden and the respondent failed to bring any cogent material to rebut the same.

8. Coming next to the issue, as to whether the incident fell within the ambit of an "untoward incident", a perusal of the record would show that at about 18:40 hours, an information was received from the GRP regarding a dead body lying between KM 533/5 and 533/7. The body was initially unidentified, however, during the personal search, an LIC premium receipt was recovered and the subsequent proceedings resulted in the identification of the deceased as *Vikash Kumar*.

9. Significantly, the later police proceedings did not merely identify the deceased, they also recorded the version of AW-2 regarding the deceased's journey and, after investigation, recorded the conclusion that the deceased had died "after falling from the said train". The Tribunal nevertheless treated the later GRP report with suspicion, without there being any evidence to establish that the police had fabricated the subsequent version.

10. Additionally, the finding of the Tribunal regarding the nature of the injuries, however, remains an inference. There is no eyewitness on behalf of the respondent who stated that the deceased was seen "lying on the track" or was "run over" by a train. There is equally no evidence from the Loco Pilot, Guard or any other railway official establishing that the deceased was not travelling by the train in question.



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11. A gainful reference in this regard may be made to the decision of the Supreme Court in “*Jameela & Ors. v. Union of India*”³, wherein also, the respondent had no eyewitness to the fall and sought to attribute the occurrence to the deceased’s negligent manner of travelling. The Supreme Court held that such an inference could not be founded on speculation and further held that even negligence on the part of a passenger would not, by itself, defeat compensation under Section 124-A.

12. The distinction between proof of the precise mechanics of a fall and proof of an “untoward incident” is important. A claimant who has lost her husband in a crowded general compartment cannot ordinarily be expected to produce a person who “witnessed” the deceased fall from the moving train. What is required is an assessment of the circumstances as they emerge from the record. Therefore, the conclusion of the Tribunal that the deceased was “run over” is not supported by any cogent evidence and is, rather, an inference drawn from circumstances which, at their highest, create a doubt as to the precise manner of the accident. Such doubt cannot be treated as proof of a different occurrence, particularly when the contemporaneous and subsequent official record, read with the evidence of AW-2, supports the case of accidental fall.

13. Accordingly, on the touchstone of the statutory scheme, the evidence on record establishes that the deceased was a *bona fide* passenger and that his death resulted from an accidental fall from the running train. The occurrence consequently falls within the ambit of an

³(2010) 12 SCC 443



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“untoward incident” under Section 123(c) read with Section 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 21.09.2026.

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

AUGUST 25, 2026

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