

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

**FAO 106/2021**

Reserved on : 24.04.2023

Date of Decision : 04.05.2023

**IN THE MATTER OF:**

**VIKRAM SINGH AND ANR.**

..... Appellants

Through: Mr. Mudit Chaudhary and Mr. Rohit  
Nagar, Advocate

Versus

**UNION OF INDIA**

..... Respondent

Through: Mr. Vineet Dhanda, CGSC with  
Mr. Husain Taqvi, Advocate

**CORAM:**

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

**JUDGMENT**

**MANOJ KUMAR OHRI, J.**

1. By way of present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter, referred to as the 'Act'), the appellants/claimants have assailed the order dated 04.08.2020 passed by the Railway Claims Tribunal, Principal Bench, Delhi in Claim Application No. O.A./II(u)/GZB/30/2016 whereby the claim application filed on behalf of the appellants was dismissed.

2. Briefly, the facts as emerged from the material placed on record are that the appellants had filed a claim application before the Tribunal. In the said application filed by the appellants, it was stated that their son *Ganga Singh* (deceased) was unmarried and aged about 24 years. On 08.08.2015, he undertook a train journey from Delhi to Meerut after purchasing a valid journey ticket at New Delhi Railway Station. As there was heavy rush, he could not find a seat and was standing near the gate of the train compartment. It was further claimed that when the train reached near *Aajhai* Railway Station, on account of sudden jerk and push, he fell from the moving train and suffered grievous injuries resulting in his death.

3. The claim application was resisted by the respondent whereafter the Tribunal vide impugned order dismissed the same.

4. Learned counsel for the appellants contended that appellant No.1 i.e., father of the deceased filed his evidence by way of an affidavit wherein he reiterated the facts stated in the claim application. He contended that the Tribunal erred in rejecting the claim application merely on the ground that the journey ticket having not been recovered, the deceased could not be held to be a *bonafide* passenger. In support of his submissions, learned counsel placed reliance on the decision of the Supreme Court of India in Union of India v. Rina Devi reported as **(2019) 3 SCC 572** to contend that mere non-recovery of the journey ticket is not fatal to the claim application.

5. Learned counsel for the respondent, on the other hand, has defended the impugned order.

6. The sole contention raised before this Court is whether in the absence of recovery of the journey ticket, can the deceased be held to be a bonafide passenger and the accident to be an 'untoward incident' in terms of Section 123(c) of the Railways Act, 1989.

7. Before proceeding further, the relevant extract of the Rina Devi (supra), is reproduced as under:-

*"29. We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."*

*(emphasis added)*

8. In the present case, appellant No.1 had examined himself. He deposed that the deceased had undertaken the said journey after purchasing a valid journey ticket which was lost in the said accident. In the cross-examination, he admitted that the deceased was not accompanied by any person.

9. A perusal of the decision in Rina Devi (supra) would show that an obligation is cast on the appellant to discharge the initial burden by filing an affidavit. The testimony of the appellant when seen in the light of the

aforesaid decision would show that the appellant failed to discharge the burden cast on him as the appellant in his testimony deposed that the deceased was not accompanied by any person. Further, the affidavit is silent as to whether the appellant had seen the deceased purchasing the journey ticket or boarding the train.

10. In like facts and circumstances, this Court in Raj Kumar and Anr v. Union of India, **FAO 587/2016** and Kusum Devi v. Union of India reported as **2022 SCC OnLine 4145** concluded that the appellant/claimant failed to discharge the burden cast on them.

11. In view of the above, I find no ground to entertain the present appeal. Accordingly, the impugned order is upheld and the present appeal is dismissed.

(MANOJ KUMAR OHRI)  
JUDGE

**MAY 04, 2023**  
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