

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

+ **FAO 168/2021, CM APPL. 24338/2021**

Date of Decision: 13.02.2023

IN THE MATTER OF:

UNION OF INDIA

.... Appellant

Through: Ms. Aakanksha Kaul and Mr.
Aman Sahani, Advocates.

versus

DULARI & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellant has assailed judgment dated 06.08.2020 passed by the Railway Claims Tribunal, Principal Bench, Delhi in Claim Application No.OA/II(u)/GZB/022/2018, whereby the claim petition filed by the respondents/claimants seeking death compensation was allowed.

2. Ms. Aakanksha Kaul, learned counsel for the appellant, has contended that the deceased was wrongly held to be a *bonafide passenger* as the journey ticket was not recovered at the spot on the date of the incident. It is also contended that the finding of the body of the

deceased in the middle of the railway track does not lead to an inference that the deceased suffered fatal injuries, as claimed in the petition.

3. I have heard the learned counsel for the appellant and gone through the material placed on record.

4. A perusal of the record would show that in the claim petition, it was averred that *Deepa* (deceased) aged about 63 years undertook a train journey on 15.11.2017 from *Amroha* to *Gajraula*. The journey was undertaken after purchasing of ordinary second-class ticket. When the train reached Gajraula Railway Station, due to heavy crowd and sudden jerk, the deceased fell from the train and died at the spot.

5. The appellant contested the claim petition. As per records, the first information about the incident was received by Station Master, *Gajraula* on 15.11.2017 at 22:00 hrs. The said information was received from an unknown source and was to the effect that a dead body was lying at KM-63/16. A *panchnama* was prepared wherein cause of death was mentioned as '*train se katkar hai*'. The appellant took a plea that the incident was a case of self-inflicted injury resulting in death.

6. From the material on record, it is also apparent that in the report prepared and communicated by GRP in-charge *Gajraula* to Police Superintendent Railway Muradabad, one railway ticket no. K57896573 from *Amroha* to *Gajraula* was stated to be handed over. The factum of recovery of the ticket has also been mentioned in the final report of the RPF. Although the railway journey ticket was apparently not recovered at the first instance, but produced later on, the Tribunal has believed the

factum of recovery of the ticket as the same was also subsequently verified to be validly issued.

7. Accordingly, this Court concurs with the findings of the Tribunal wherein it was observed that the deceased was a *bonafide passenger*.

8. Insofar as the contention of learned counsel for the appellant that injuries sustained by the deceased were ‘self-inflicted injuries’ is concerned, the law is no longer *res integra*. In Union of India v. Rina Devi reported as (2019) 3 SCC 572, the Supreme Court held as under:

“25. We are unable to uphold the above view as the concept of ‘self-inflicted injury’ would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on ‘no fault theory’. We may in this connection refer to judgment of this Court in United India Insurance Co. Ltd. versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on ‘no fault theory’ under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an ‘untoward incident’ entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor.”

(emphasis added)

9. Besides, the Tribunal has observed that as per DRM report itself, five passenger trains passed *Gajraula* Station between 20:14 hrs to 21:40 hrs i.e. before the dead body was discovered. As such, mentioning of ‘*train se katkar hai*’ in initial report appears to be of no significance.

10. In view of the above, no ground is made out for interference with the impugned judgment. The appeal is dismissed and the impugned judgment is upheld. Pending application stands disposed of. Let the compensation amount be released to the respondents/claimants forthwith, if not already done.

(MANOJ KUMAR OHRI)
JUDGE

FEBRUARY 13, 2023

ga

