



\$~J

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO 237/2021

Reserved on: 16.03.2023

Pronounced on: 05.07.2023

**IN THE MATTER OF:**

REKHA

....Appellant

Through: Ms.Vijay Lakshmi, Advocate

versus

UNION OF INDIA

....Respondent

Through: Mr.Ranvir Singh, CGSC

**CORAM:**

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

**JUDGMENT**

**MANOJ KUMAR OHRI, J.**

1. By way of present appeal filed under the Railway Claims Tribunal Act, 1987 (hereinafter, referred to as the 'Act'), the appellant, claiming herself to be the mother of the deceased, has sought setting aside of order dated 03.03.2020 passed by Railway Claims Tribunal, Principal Bench, Delhi in OA/II(u)/DLI/2019/262, whereby the claim application filed on her behalf was dismissed.

2. The facts, as culled out from the records, are that the deceased had undertaken a train journey on 19.06.2018 from *Asawati* Railway Station to *Ghaziabad* Railway Station. He was returning to his village *Bhudabas* and for the said purpose, had boarded an EMU train from *Asawati* Railway Station after purchasing a journey ticket. At KM No.1491/33-35



near *Asawati* Railway Station, on account of sudden jerk and push of the crowd, the deceased accidentally fell from the train and died at the spot. The Tribunal held that the deceased was not a *bonafide passenger* and rejected the contention that the incident could be characterized as an ‘untoward incident’.

3. Learned counsel for the appellant contended that in the present case, the accidental fall of the deceased amounted to an ‘untoward incident’. In support, she stated that a journey ticket bearing No.96069174 for travel from *Asawati* to *Ghaziabad* was recovered from the person of the deceased. Secondly, it was averred that the body of the deceased was found at railway tracks near *Asawati* Railway Station.’

4. Learned CGSC for the respondent, on the other hand, defended the impugned order.

5. I have heard learned counsels for the parties and perused the material on record.

6. Insofar as the factum of recovery of the journey ticket from the deceased is concerned, it is not in dispute that the same was verified and found to be validly issued.

7. Although learned CGSC for the respondent referred to the decision of the Supreme Court in Kamrunnissa v. Union of India reported as (2019) 12 SCC 391, it is noteworthy that in the said case, the deceased was not held to have been a *bonafide passenger* as no journey ticket was recovered from him. However, in the present case, a journey ticket was not only recovered, but also verified and found to have been validly issued. Accordingly, this Court is of the opinion that the Tribunal erred in holding that the deceased was not a *bonafide passenger*.



8. Another issue that arises before the Court is as to whether the incident in question can be stated to have been an ‘untoward incident’ as defined under Section 123(c) of the Railways Act, 1989.

9. In this regard, it is observed that the first information about the incident, as found mentioned in the Memo of Station Master of *Asawati* Railway Station, came to be recorded at 06:55 hours on 19.06.2018. It was to the effect that one daily passenger had informed that an unknown body was lying at railway track at KM. No.1491/33-35.

10. In the *panchayatnama*, it is stated that death of the deceased occurred due to him being run over by a train. As per the site-plan, the head of the deceased was found decapitated from the body at UP- line of platform No.4, and one of his hands was found at a distance of 4 ft from the body.

As per the DRM Report, part of the body of deceased was found lying at the railway track from which train goes to Mathura and not Delhi. Admittedly, there is no eyewitness to the incident.

11. Pertinently, as per the appellant, the body of the deceased was found at railway track of *Asawati* Railway Station. A perusal of the DRM report, on the other hand, would show that despite noting that in case the deceased had been run over by a passenger train, the driver of that train would have informed about the incident to the Station Master, it was concluded that the incident was a result of the deceased being run over by a train even though, as per material available on the record, no such information was conveyed by the train driver to the Station Master.

12. A perusal of the site-plan further shows that the railway tracks for trains coming from and going towards Delhi are adjacent to each other.



13. As such, merely because the body of the deceased was found cut into halves would not *ipso facto* result in an assumption that the incident was not on account of accidental fall, and thus not covered by the definition of '*untoward incident*'. The reasoning given in the DRM report and adopted by the Tribunal is flawed. In fact, in somewhat similar facts and circumstances, a Co-ordinate bench of this Court in Sh. Prempal Singh & Anr. v. Union of India, **Neutral Citation No. 2018:DHC:2713** also found the reasoning to be untenable.

14. Based on the foregoing, this Court is of the view that the deceased is held to be a *bonafide passenger* and the incident in question an '*untoward incident*'. Consequently, the appeal is allowed and the impugned order is set aside.

15. The matter is remanded back to the Tribunal for awarding compensation in terms of the Act, for which purpose the matter shall be listed at the first instance before the Tribunal on 17.07.2023. Let the compensation amount be paid to the appellant/claimant within two weeks thereafter.

16. The appeal is disposed of in the above terms.

17. A copy of this judgment be communicated to the concerned Tribunal for information.

(MANOJ KUMAR OHRI)  
JUDGE

JULY 05, 2023/v