



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

% **Judgment reserved on : 22 November 2023**
Judgment pronounced on: 11 December 2023

+ **FAO 64/2018**
SITA RANI Appellant

Through: **Mr. Shyam Singh Sisodia, Adv.**

versus

UNION OF INDIA Respondent

Through: **Mr. Kavindra Gill, Sr. Panel Counsel**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This appeal has been preferred by the appellant under Section 23 of the Railway Claims Tribunal Act, 1987¹, assailing the impugned order dated 10.11.2017, passed by learned Presiding officers of the Railway Claims Tribunal, Principal Bench, Delhi² in the matter 'Smt. Sita Devi vs. Union of India' in claim application bearing No. OA (Ilu) 272/2016 whereby the claim application filed by the appellant herein was dismissed.

FACTUAL BACKGROUND:

2. Briefly stated, the appellant, is the widowed sister of the deceased, Mr. Subhash Chand Chadha. It was the case of the appellant that her brother was travelling by train from Delhi to Hapur, State of Uttar Pradesh on 18.03.2016; and that the train when it was passing through the railway tracks near the railway phatak (railway crossing) close to

¹ RCT Act

² RCT



Hapur Railway Station, her brother fell from the running train due to overcrowding and sustained injuries resulting in his death on the spot. It was claimed that her deceased brother had purchased a general ticket in the presence of his brother Mr. Inder Chadha, who witnessed the deceased boarding the train; and that it was on the following day i.e., on 19.03.2016 that she was informed by the police that the deceased had fallen from the train and his body was lying at the Railway Tracks, Transport Nagar, Railway Phatak at Hapur (Uttar Pradesh), in regard to which DD No. 19 was lodged. The appellant filed the claim petition seeking compensation of Rs.10,00,000/- (Rupees Ten Lacs), along with interest @18% per annum from the date of filing of the claim petition for the loss of her brother in a rail accident.

3. The Respondent Railways contested the claim petition *inter alia* on the ground that deceased was not a 'bonafide passenger' as there was found no journey ticket from the possession of the deceased for which reliance was placed on the DRM Report and that there was no averment as to which train deceased was travelling from Delhi to Hapur, when the alleged untoward incident occurred. Lastly, the claim petition was contested on the ground that the appellant was not financially dependent upon the deceased.

4. At the time of submission of evidence and through the course of the hearing before the learned RCT, the applicant/appellant herein appeared as AW-1 and exhibited the documents bearing Exbt.AW-1/1 to AW-1/4. Further, the brother of the deceased – Mr. Inder Chadha, was also examined as AW-2. On the other hand, the respondent solely relied on the DRM Report and did not examine any witnesses.



ISSUED FRAMED & ORDER OF THE TRIBUNAL:

5. The learned RCT framed the following issues for consideration: -

- i. Whether the deceased was a bonafide passenger on 18.03.2016, board the train in question at the relevant time of the incident?
- ii. Whether the death of the deceased was on account of an accidental fall amounting to an untoward incident, as claimed in the claim application?
- iii. Whether the applicants are the dependents of the deceased within the meaning of Section 123(b) of the Railways Act, 1989?
- iv. To what amount of Compensation, if any, are the applicants entitled?
- v. Relief, if any?"

IMPUGNED JUDGMENT:

6. Although learned RCT decided the issue no. 3 in favour of the appellant/ claimant, however, it was held that there was no evidence that the deceased had fallen from a train and it was doubtful that he was at all travelling by the train, for which reliance was placed on the postmortem report that suggested that *“only major bones below the waist were fractured and the cause of death was shock and internal hemorrhage while the upper body of the deceased was entirely intact, which injuries were not usually witnessed in cases of any passenger falling from a train”*. It was further found that no valid rail ticket was recovered from the body of the deceased. Hence, it was held that the appellant / claimant failed to prove that the deceased died due to untoward incident involving any train and moreover, he was not proved to be a *bonafide* passenger. Hence, issue no. 1 & 2 are decided against the appellant/claimant and claim petition was dismissed.

7. The impugned decision is challenged in the present appeal *inter alia* on the grounds that the learned Tribunal completely overlooked the evidence led by the appellant AW-1 and her brother AW-2 and that there



was no evidence to the effect that deceased died while crossing the railway track nor such suggestion was given in the cross-examination of the witnesses; and that the postmortem report as well as proceedings under Section 174 Cr.P.C *prima facie* brought out that the death had occurred as a result of untoward incident on falling from a moving train.

ANALYSIS AND DECISION:

8. Having heard the learned counsel for the parties and on a careful perusal of record, this Court finds that the present appeal is devoid of any merits. It would be expedient to reproduce the reasons accorded by the learned RCT while dismissing the claim petition, which go as under:

“1) Whether the deceased was a bona fide passenger on 18.03.2016, board the train in question at the relevant time of the incident?

The applicant, who is the widowed sister of the deceased, contends that her brother was travelling from Delhi to Hapur by a Passenger -A Train. He was supposed to have travelled from Hapur to Delhi on the same day in the morning to see his ailing elder brother. He returned and fell down from the train and received fatal injuries and died. To prove that the deceased was a passenger, the elder brother of the deceased has been examined as AW-2, who claims that he saw his brother purchasing the ticket. The elder brother of the deceased (AW-2) himself given evidence that he did not go to receive the deceased at the station because he was an asthmatic patient. There is simply no reason why his ailing elder brother must come to the station to see his brother purchasing the ticket. There have been some decisions, which cast the burden of proof that the person did not have a ticket as cast on the Railways. The proof of the negative fact is that a ticket has not been produced. After the said fact is established by the respondent railway, the onus must then be taken as resting on a person, who asserts that the deceased had a ticket. If that assertion is only through the evidence of AW-2 above, we reject his evidence in the light of whatever we have observed. However, it must be noticed that tie body had not been pulverized by a fall from the train and it was not as if nothing was recovered from the body. On the other hand, the police had recovered a diary and a leather purse. If heavier objects, which can pop up, are still available on the body, a light object, like a ticket, cannot selectively be lost. Therefore, we reject the contention of



2025-000-0000



applicant that the deceased was a bona fide passenger. Hence, Issue No.1 is decided in the negative against the applicant.

2) Whether the death of the deceased was on account of an accidental fall amounting to an untoward Incident, as claimed In the claim application?

Nobody had actually seen the deceased falling from the train. The police had merely acted on the inference suggested by the Panchas that the deceased died due to fall from the train. When we doubt that he was even travelling by the train, we will not take this to be even an untoward incident by falling from the train. The place of incident is a Railway Phatak at the village, near which he was actually living. It is anybody's guess how he received fatal injuries. Perhaps, there was an involvement of some train where the grievous injuries were suffered, but we will not go as far as to state that he was travelling in the train and that grievous injuries were suffered due to fall from the train. The Post-Mortem Report shows the fracture of all the major bones below waist. It could have been by heavy impact of the speeding train on the deceased. As per autopsy report, the cause of the death was due to shock and internal hemorrhage. The whole part of the upper body has been intact, which would not normally be the case when a person falls from the train. Hence, we hold that the untoward incident has not been clearly established. Hence, Issue No.2 is decided in the negative against the applicant.

3) Whether the applicants are the dependants of the deceased within the meaning of Section 123(b) of the Railways Act, 1989?

Applicant is the widowed sister of the deceased and she has given evidence that she was wholly dependent upon the deceased. The applicant has also filed a copy of the Aadhaar Card to prove her status and identity. Hence, we hold that she was the dependant of the deceased. Issue No.3 is answered accordingly.

9. On a careful perusal of the aforesaid reasoning, this Court is unable to persuade itself from holding that the findings recorded by the learned RCT on facts are in any manner perverse or suffering from any incorrect approach in law. First thing first, it is brought out that no rail ticket was recovered from the body of the deceased. The testimony of AW-2 that he had seen his brother purchasing a rail ticket is uninspiring and the learned RCT rightly observed that AW-2 acknowledged that he



did not go to drop the deceased at the railway station for being an asthmatic patient. There was no iota of evidence on which train the deceased embarked on his journey from Hapur to Delhi. Anyhow, alternatively if the deposition of AW-2 in the affidavit is believed, that he had dropped his deceased younger brother at 7:00 p.m at the platform who boarded Hapur shuttle, the dead body of the deceased was found at the tracks the very next date at 6:40 a.m in the morning. Now, the distance between Delhi to Hapur by shuttle is not more than 45 minutes.

10. It was rightly concluded by the learned RCT that no one saw the deceased falling from the train either. The plea of the appellant that ticket was lost in the mishap belies common sense when it is seen that the police recovered a diary and a leather purse from the body of the deceased, and therefore, it is difficult to hold that he was a 'bonafide passenger'. The inference formed by the Panchas at the time of inquest report under Section 174 Cr.P.C that deceased had probably fallen from a train is hardly of any consequence when actually no one saw the deceased falling from a train. By the own case of the appellant, the incident alleged to have taken near Railway Pathak(crossing) at the village of which the deceased was a native.

11. It is but obvious that in the aforesaid circumstances the DRM report dated 27.04.2017 rightly recorded that the deceased died perhaps because of his own negligence while crossing the railway track. The nature of injuries that were found on the body of the deceased consequent to postmortem are sufficient to invite such reference under the normal circumstances. Therefore, the reasons given by the learned RCT that the deceased did not die of untoward incident involving a train is clearly sustainable. Reference can be invited to decision in the case of



Union of India v. Rina Devi³, wherein it was held by the Supreme Court that “*mere presence of a body on the railway premises will not be conclusive to hold that injured / deceased was a bonafide passenger for which claim for compensation could be entertained.*”

12. In view of the foregoing discussion, this Court finds that the learned RCT did not commit any illegality, perversity or adopted any incorrect approach in passing the impugned order dated 10.11.2017. Hence, the present appeal is dismissed.

DHARMESH SHARMA, J.

DECEMBER 11, 2023

‘ss’

³ (2019)3 SCC 572