

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 1133 of 2024

Manju Agarwal & Ors.

-Vs-

Union of India

For the Appellant : Mr. Rowsan Kumar Jha

For the Respondent : Mr. Anjan Chakraborty

Heard on and Judgment on : 24.10.2025

Ananya Bandyopadhyay, J.:-

1. The present appeal challenged the judgment and order dated 24.06.2024 passed by the learned Railway Claims Tribunal, Kolkata Bench, whereby the Appellant's claim for compensation under Section 124A of the Railways Act, 1989 was rejected in relation to the tragic and untimely death of her husband, who allegedly fell from a running train on 23.03.2021 while travelling between Howrah and Uttarpara railway stations.
2. The Appellant, a widow, presented her claim on the factual premise that on the morning of 23.03.2021, her husband, a small businessman, had left their residence stating that he was to travel to Uttarpara for business-related work. It was a journey he had undertaken often—every two or three months, using the local train network.

3. Later the same day, she received the tragic news: her husband had died having fallen from a running train. His mobile phone and a gold amulet were recovered. His wallet and travel ticket were not recovered.
4. The Appellant filed the claim application under Section 124A of the Railways Act, 1989, which mandated payment of compensation for death or injury caused by an "untoward incident", including accidental fall from a train carrying passengers.
5. The learned Tribunal rejected the claim, primarily on the ground that the ticket was not recovered, thereby questioning the victim's status as a bona fide passenger.
6. The Learned Advocate representing the petitioner submitted as follows:-
 - i. The applicant approached this Hon'ble Court seeking compensation for the untimely and tragic death of her husband on 23.03.2021, resulting from an "untoward incident" within the meaning of Section 123(c)(2) read with Section 124A of the Railways Act, 1989, while travelling in a local train from Howrah Railway Station towards Uttarpara Railway Station.
 - ii. On the fateful day, the victim had left his residence in the early hours of 23.03.2021, clearly stating to the Applicant and other members of the household that he was travelling to Uttarpara to meet an acquaintance regarding a business-related transaction. This was a journey the deceased frequently undertook every two to three months, by local trains, as part of his small-scale trading occupation. The deceased, a man of modest means, was known for his integrity

and compliance with the law. Each time he travelled, he was meticulous in purchasing a valid travel ticket. Such conduct has been consistent throughout his life.

- iii. Later the same day, the Applicant was informed by the local authorities that her husband had succumbed to injuries resulting from a fall from a running train. The circumstances of his death, and the location of his body beside the railway tracks, clearly suggested that he had been a passenger aboard a train when the fatal incident occurred. Despite immediate investigations, only the mobile phone of the deceased and a gold amulet were recovered. His wallet and train ticket were never found.
- iv. The absence of a ticket on the body of the deceased cannot, and ought not to, be used to deny the Applicant her lawful entitlement to compensation. It is well-settled in law that non-recovery of a ticket does not automatically negate the status of a bona fide passenger. Reliance was placed upon the judgment of the Hon'ble Supreme Court in *Kamukayi & Others v. Union of India*, 2023 SCC OnLine SC 642, wherein it was observed that the burden of proof shifts upon the Railways once the applicant establishes a plausible narrative supported by circumstances and reasonable evidence.
- v. The Applicant also filed an application under the Right to Information Act, 2005, to ascertain whether the wallet or any personal effects containing the ticket were seized. The response from GRPS confirms

that no wallet was ever recovered, thus providing a justifiable reason for the absence of the travel ticket.

- vi. During the course of proceedings, the Respondent relied upon the testimony of certain railway staff, particularly the guard and motorman of Train No. 37239 UP, to suggest that the deceased was knocked down. However, a careful examination of the record reveals otherwise.
- vii. The motorman, Sri Ramesh Kumar Sinha, in his cross-examination, clearly stated that he did not witness any such incident and only saw a body lying beside the siding line, away from the UP Main Line. He further clarified that no knockdown occurred from Train No. 37239 UP. If the motorman, who operates the train, did not witness the incident, then the assertion by the guard, who occupies a more distant position in the train, is manifestly speculative and cannot be relied upon.
- viii. The post-mortem report, a crucial forensic document, records that the injuries were localized to the head of the deceased, with no other major injuries to the limbs, torso, or bones. This pattern of injury is not consistent with a knock-down, which typically results in multiple fractures, abrasions, and compound injuries across the body.
- ix. The Hon'ble Bombay High Court, in the judgment rendered on 11.10.2023 in Sonali & Others v. Union of India, 2023 SCC OnLine

Bom 2298, held that head injuries alone suggest a fall rather than a knockdown, thereby supporting the Applicant's case.

- x. The Police Investigation Report dated 16.03.2023 (Page 30 of the DRM Copy) unambiguously concludes that the deceased died due to a fall from an unknown running train. The Inquest Report dated 23.03.2021 corroborates the same. These official documents, prepared in due course of public duty, carry a presumption of correctness and have not been rebutted by any independent evidence from the Respondent.
- xi. Under Section 124A, compensation is payable in every case of death due to an "untoward incident" unless it falls under the specific exclusions, such as suicide, self-inflicted injury, criminal acts, intoxication, or natural causes.
- xii. The Respondent has not alleged—nor proved—that the death of the victim falls within any of these exclusions. Therefore, the statutory presumption of liability under Section 124A squarely applies.
- xiii. The Railways Act, 1989, as affirmed by the Hon'ble Supreme Court in *Union of India v. Prabhakaran Vijaya Kumar*, (2008) 9 SCC 527, is a beneficial piece of legislation and must be interpreted with purposive and liberal construction to achieve its object—to provide timely compensation to victims and their families, without being ensnared in technicalities. At Paragraphs 14 to 17, the Hon'ble Apex Court lucidly

held: *“The Railways Act, being a social welfare legislation, cannot be construed in a narrow and pedantic manner... once it is established that the deceased was a bona fide passenger and the death occurred due to untoward incident, the Railways cannot escape liability.”*

- xiv. Furthermore, the Hon’ble Bombay High Court in Sonali (supra) (Para 11) has ruled that even if a passenger over-travels beyond the ticketed station due to prevailing circumstances, they continue to be considered *bona fide* passengers for the purpose of compensation under Section 124A.

7. The Learned Advocate representing the respondents submitted as follows:-

- i. The present claim application, as instituted by the Applicant under the provisions of the Railways Act, 1989, was wholly misconceived, legally untenable and not maintainable in its present form and structure. The claim was devoid of any cause of action against the answering respondent and appeared to have been premised on misstatements and speculative assertions, which did not withstand legal scrutiny. Furthermore, the claim stood vitiated by non-joinder and mis-joinder of necessary parties, and was barred by the principles of waiver, estoppel, acquiescence, and constructive negligence, and thus liable to be dismissed at the threshold.
- ii. The personal details of the applicant as set forth in Items No. 1 to 6(i)(a) to 6(ii)(a) of the claim application were not admitted by the

respondent, as the same were stated without any corroborative documentation or statutory verification. In the absence of conclusive proof, the respondent placed the applicant to strictest proof thereof, and reserved its right to traverse such particulars upon presentation of substantive evidence.

- iii. The respondent disputed the relationship of the applicant with the deceased, and further denied the identification of the deceased person as Deepak Agarwal.
- iv. It was further submitted that the the deceased, Deepak Agarwal, was a bona fide passenger on any train operated by Indian Railways on the material date. No ticket, pass, or travel authority was discovered in his possession, nor has the Applicant produced any such valid travel credential, thereby undermining the claim of lawful travel.
- v. The applicant had categorically admitted that no ticket was either found on the body of the deceased or produced before the investigating agency. In the absence of a valid journey ticket, the presumption of bona fide travel did not arise.
- vi. The deceased boarded a local train at or around 11:54 AM on 23.03.2021 from Howrah Railway Station and met with an accident near Hindmotor Station was entirely denied by the respondent. The entire sequence, including the telephonic intimation from an alleged

GRPS personnel to the deceased's employee, was unsupported by any official record and remained anecdotal at best.

- vii. The respondent did not deny that the deceased was found dead near KM 10/19-10/21 between Uttarpara and Hindmotor Railway Station. However, the DRM's Investigation Report, enclosed and marked as Exhibit R-1, unequivocally reveals the following:

- No journey ticket, travel pass or authority was found in possession of the deceased;
- No co-passenger or independent eyewitness was found during investigation;
- The motorman and train guard of the local train (Train No. 37239 UP) categorically denied witnessing any person falling from the train;
- The deceased was found lying beside the track, outside the platform area, on a siding line, not typically accessible to passengers;
- The RPF's final conclusion was that the deceased was likely crossing the railway track in a negligent and unauthorised manner and was knocked down, which constituted an act of trespass and was outside the ambit of Section 123(c)(2) of the Railways Act.

- viii. While the removal of the dead body and issuance of Form-I and Form-II by railway authorities were not denied, the same was procedural and did not constitute admission of liability.
 - ix. The Post-Mortem Report stated that death was due to ante-mortem injuries, but also bore remark reserving conclusion till receipt of Chemical Examiner's report. No final causative link has been established between railway travel and the fatality.
 - x. As per the RPF's conclusive finding, the incident was the result of the deceased's own negligence, namely, crossing the railway track unauthorisedly, and thus did not qualify as an 'untoward incident' under Section 123(c)(2). The act of trespassing was an express exception under Section 124A, and no compensation was payable under such circumstances.
8. The appellant's case precisely stated the deceased to have been a small businessman and a frequent traveler (every two or three months) between Howrah to Uttarpara for business related transactions. The victim died due to fall from a running train near Hindmotor station which constituted an untoward incident under Section 123 (c) (2) read with Section 124(A) of the Railways Act, 1989. The deceased was a bona fide passenger and the non-recovery of the ticket was credibly explained through non-recovery of his belongings including wallet, mobile phone etc. as confirmed by the response through an application filed under Section RTI Act from the GRP.

9. The Learned Tribunal dismissed the claim primarily on the ground that the deceased's status as a bona fide passenger was not proved due to absence of a ticket and by accepting a speculative "knock down theory".
10. The present appeal raised the question concerning the proper interpretation and application of Section 124 (A) of the Railways Act, 1989 mandated to afford prompt succour to victim of untoward incident and their families.
11. The primary reasoning upon which the tribunal's decision rest is the non-recovery of travel ticket from the possession of the body of the deceased. The non-recovery of the ticket was plausibly explained by the admitted fact that the wallet was not recovered as confirmed by the RTI's response from the GRP. The Hon'ble Supreme Court in the decision cited in Union of India vs. Rina Devi (2019) 5 SCC 572 observed "*Mere absence of ticket with the deceased will not negate the claim.....*"
12. The burden shifts to the railways to prove the contrary is set up by the claimant. Furthermore, in Kamukayi and others vs. Union of India, 2023 SCC Online 642, the Apex Court reiterated that the mere non-recovery of the ticket is not fatal to the claim and plausible explanation hearing such as non-recovery of the wallet justified the legal presumption of bona fide travel.
13. The Tribunal appeared to have misplaced reliance on speculative, contradictory hearsay from the respondent's witnesses (the guard of train no. 37239 UP) while utterly dismissing the objective evidence. The motorman, who was in a position to witness any "knock down" categorically deposed that he did not witness any such incident and only saw the body lying beside the siding line. He expressly denied any "knock down" from the

train. The guard's statements on the other hand was merely and hearsay and inherently speculative originating from a distant position.

14. The post-mortem report is crucial forensic document. It records injuries, localized to the head with no major injuries to the limbs or torso. The Hon'ble Bombay High Court in *Sonali and Others* under Section Union of India, 2023 SCC Online Bombay 2298 held that such an injury pattern was not consistent with a "knock down" which typically resulted in multiple widespread injuries but rather strongly indicated a fall from a running train. The Learned Tribunal failed to consider the post-mortem report in its entirety without assigning any rationale for dismissing the medical evidence corroborating the appellant's narrative. The police investigation report and the inquest report both unambiguously concluded that the deceased's death was due to fall from an unknown running train. These documents prepared in the discharge of official duty presumably exhibit to be correct and the same had not been rebutted by independent evidence. The Learned Tribunal's finding that the death was consequence of "knock down" had been, therefore, factually, forensically unacceptable which refuted claim of a fall and unduly narrowed the ambit of untoward incident.
15. The death of the deceased, having occurred as a result of an accidental fall from the train while being a passenger squarely falls within the definition of "untoward incident" under Section 123 (c) (2) of the Railways Act. The said Statute evinced social welfare legislation demanding a liberal and purposive conception to achieve its object for providing and ensuring timely compensation to the victims and their families. The Hon'ble Supreme Court

in Union of India vs. Prabhakaran Vijaya Kumar (2008) 9 SCC 527, inter alia, observed as follows:

“The Railways Act being a social welfare legislation, cannot be construed in a narrow and pedantic manner.....

Once it is established that the deceased was a bona fide passenger and the death occurred due to untoward incident, the railways cannot escape law.”

16. The respondent-railways has not alleged nor proved that the cause of death fell within any of the specific exclusions of Section 124(A) [suicide, criminal act, self-inflicted injury]. Therefore, the statutory presumption of law under Section 124 (A) squarely applies in favour of the appellant.
17. In view of the aforesaid discussion, this Court is satisfied that the death of the victim has been caused by an untoward incident involving the bona fide passenger in absence of contrary evidence to prove the same. The judgment and order of the Railway Claims Tribunal, Kolkata Bench dated 24.06.2024 is hereby set aside. The respondent-Union of India is directed to pay compensation to the appellant in accordance with the provisions of Section 124(A) of the Railways Act, 1989 along with interest at the rate of 6 per cent per annum from the date of the application claiming the compensation till the date of its realization.
18. In view of the above discussions, the instant appeal being FMA 1133 of 2024 is allowed.
19. The Trial Court Records shall be sent down to the concerned tribunal forthwith.

20. Copy of the order be sent to the Department as well as concerned tribunal for information.

(Ananya Bandyopadhyay, J.)