

IN THE HIGH COURT OF JHARKHAND, RANCHI
M.A. No. 193 of 2024

- 1.** Sudama Das, aged about 44 years, son of deceased Baldev Das
- 2.** Tusia Dev @ Devi, aged about 65 years, wife of deceased Baldev Das
- 3.** Bhudev Das, aged about 48 years, son of deceased Baldev Das
All are residents of Himatand, PO and PS – Chakai, District – Jamui (Bihar)
- 4.** Raniya Devi, aged about 39 years, married daughter of deceased Baldev Das, resident of village – Khajuriya, Post – Banka, PS – Jasidih, District – Deoghar

.... Appellants

-- Versus --

Union of India through the General Manager, Eastern Railway, Kolkata,
PO and PS – Kolkata, District - Kolkata

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants	:-	Mr. Manish Kumar, Advocate
For Respondent	:-	Mr. Shiv Kr. Sharma, Sr. CGC
	:-	Mr. Chandra Prakash, CGC

06/30.04.2025 Heard learned counsel appearing for the appellants and learned counsel appearing for the respondent – Railway.

2. This appeal is preferred against the judgment dated 01.02.2024 passed by learned Railway Claims Tribunal in Case No. OA(IIU)/RNC/33/2023 whereby the claim of the appellants herein have been rejected by the learned Tribunal.

3. Learned counsel appearing for the appellants submits that the claim petition was instituted stating that on 30.06.2022 the deceased Baldev Das was travelling by Jasidih-Asansol EMU Train No.63564 from Ex-Jasidih to Raniganj on a valid 2nd Class railway ticket with a view to go to meet his elder brother for some work and on that day one Nitish

Kumar Verma had gone to railway station to see off the deceased Baldev Das and purchased the journey ticket for the deceased and returned back his home when the deceased boarded the train. In the course of journey, the deceased accidentally fell down from the running train at night time due to overcrowded pressure of passengers and sudden jerk of the train between Jasidih and Rohini railway stations and died on the spot. Sudama Das son of the deceased got information from Jasidih P.S. about the incident on 01.07.2022. On the basis of the fardbeyan of Chameli Devi, daughter-in-law of the deceased a UD Case No.23/22 was registered by PS/Jasidih on 01.07.2022. It was stated that the journey ticket was lost in the incident and on this background the compensation case was filed.

4. Learned counsel appearing for the appellants further submits that the learned Tribunal has been pleased to dismiss the appeal only on the grounds that the tickets have not been recovered from the possession of the deceased and on the ground that loco pilot, who has seen the body, has not supported the case. He submits that the learned Tribunal has failed to take into consideration that the deceased was travelling in the train, however, the ticket in question has been lost as has been fallen down from the train and that has also come in the inquest report as well as the final report. He submits in view of that the learned Court has wrongly passed the award and Section 123 of the Indian Railways Act has not been considered by the learned Tribunal. On this background, he submits that this appeal may kindly be allowed.

5. Learned counsel appearing for the respondent – Railway opposes the prayer and submits that the learned Tribunal has looked into

all the documents and thereafter passed the award whereby the claim has been rejected and Loco Pilot of Train No.13022 has first seen and informed to SM/JSME that body of an unknown male person is lying at KM No.321/14-12 and he was examined as RW-1 and in view of that the learned Tribunal has rightly passed the award. He further refers to Section 50 of the Indian Railway Act, 1989 and submits that the tickets are being supplied in light of the said provision and in view of that the learned Tribunal has rightly passed the award.

6. It is an admitted position that death of Baldev Das has occurred on the railway track and the dispute is there with regard to the said train whether it is due to falling from the train or he was otherwise present on the track. Learned Tribunal has rejected the claim of the appellant on the ground that the journey ticket was not found, however, the person who has purchased the ticket for the deceased was examined as AW-2 before the learned Tribunal, who has stated that the ticket in question was purchased by him and he has handed over the ticket to the deceased. He further supported the case of the claimants and AW-1 has also supported the claim case of the appellants thus, the travel on the train and purchase of the ticket has been proved by way of leading the evidence. Further one UT case was registered disclosing the accident by the train and the final report is also there in the record wherein the cause of death is said to be accident due to falling from the train and the inquest report further disclosed that the accident has occurred due to falling from the train and in view of that the travelling and falling from the train has been put at rest and the learned Tribunal in spite of that rejected the claim of the appellants. It was further disclosed therein that the railway ticket and

belongings were lost in the said accident and in view of that the facts which has been proved it cannot be ruled out that at least case of the appellants are coming within the parameters of untoward accident.

7. Section 123(c)(2) of the Railway Act, 1989 talks about accidental falling of any passenger from a train carrying passengers, the actual falling need not be outside the train. There can be cases where the passenger can be accidentally hit say by a stone pelted by a miscreants from outside, who falls within the train. The wording of Section 123(c)(2) does not require that he should necessarily fall outside the train. Emphasis of the said definition is on an untoward incident caused in an accident and once the accident has occurred not much importance can be given as to whether body of the passenger falls inside or outside the train. What has been discussed here-in-above in view of the documents as well as the inquest report and the other documents of investigation clearly suggest that accident took place due to falling from the train as such a restricted and narrow meaning should not be given to Section 123(c) of the Railways Act, as that would deprive large number of victims in train accidents from getting compensation under the Act.

8. In view of the above facts and further considering that the ticket and belongings of the deceased was lost in such accident which cannot be ruled out. For the aforesaid reasons, this appeal succeeds. As such the judgment dated 01.02.2024 passed by learned Railway Claims Tribunal in Case No. OA(IIU)/RNC/33/2023 is hereby set aside.

9. The claimants shall be entitled to be paid for the compensation of Rs.8,00,000/- along with interest @ 7.5% per annum from the date of filing of the claim case *i.e.* 11.05.2023 till the actual payment.

10. In view of that the sole respondent is directed to comply this order within eight weeks from today.

11. This appeal is allowed in above terms and disposed of.

12. Let the Trial Court Records be sent back to the learned Court concerned forth with.

(Sanjay Kumar Dwivedi, J.)

Sangam/

A.F.R.