

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**M.A. No. 252 of 2023**

Kishun @ Kishun Turi, son of Late Turi, aged about 48 years, resident of Village/Mohalla-Nagve, P.O. & P.S. Simultala, District Jamui, Pin-811316 (Bihar) ... .. **Applicant/Appellant**

*-Versus-*

Union of India through the General Manager, Eastern Railway, Kolkata, P.O. Hare Street, P.S. Garden Reach, District Kolkata (West Bengal) ... .. **Respondent/Respondent**

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**CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

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| For the Appellant | : Mrs. Chaitali Chatterjee Sinha, Adv.<br>Mrs. Chainika, Advocate |
| For the Railways  | : Mr. Ravi Prakash, CGC                                           |

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**09/28<sup>th</sup> July 2025**

1. Heard the learned counsel for the parties.
2. This appeal has been filed under Section 23(1) of the Railway Claims Tribunal Act, 1987 challenging the judgment dated 19.04.2022 passed by the learned Member (Technical), Railway Claims Tribunal, Ranchi Bench in Case No. OA (IIU)/RNC/35/2019 (Checklist no. 2901190005) in an application filed under Section 16 of the Railway Claims Tribunal Act, 1987, wherein the learned Tribunal has dismissed the claim application of the applicant (claimant) seeking compensation amounting to Rs. 8 lakhs along with interest on the date of incident i.e. 12.12.2016 on account of loss and amputation of leg as prescribed under Part II Clause 3 of Rule 3 under the Schedule in the Railway Accidents and Claims Compensation (Amendment) Rules, 1990 holding that the appellant was not a bonafide passenger and did not get injured in an untoward incident as prescribed under the Railway Act, 1989.

**Arguments of the appellant-claimant**

3. The learned counsel for the appellant, while challenging the impugned judgment, has submitted that the facts and circumstances of the

case have not been properly appreciated by the learned Tribunal and the evidence of two persons i.e. the claimant and of one Bullu Das (who was a co-passenger in the train who got down prior to the incident). The learned tribunal has recorded that these witnesses have been fully cross-examined but their evidence has not been properly appreciated by the learned Tribunal while rejecting the claim.

4. The learned counsel has submitted that the records of the case revealed that *sanha* was reported on the basis of the statement of one Rohit Mishra, whose statement was also recorded during enquiry conducted by the railway authorities, wherein Rohit Mishra had stated that the incident had taken place on 12.12.2016 at 18:30 hours; Rohit Mishra was in Rohini Bazar and upon hearing commotion, he reached the place of occurrence and saw that one injured person was lying down at railway line and crowd was gathered around him; on enquiry, Rohit Mishra was informed that it came to light that the injured person had jump down from train number 63564 when the train was in running condition and got injured, became unconscious and the claimant was taken to hospital for treatment. The learned counsel submits that one of the legs of the claimant was amputated in the hospital.

5. The learned counsel has also submitted that in the enquiry, the statement of the claimant was also recorded wherein he disclosed that he was working as a labourer in building construction at Deoghar City; on 12.12.2016 while he was returning home, he purchased railway ticket from BDME Railway Station for Baidyanath Dham to Simultala; he boarded in DMU passenger train; when the said train departed from KBQ Station, then he realized that the train was going in wrong direction and without any thought he jumped down from the train; his left leg got cut from the knee, he became unconscious and gain his consciousness in hospital.

6. The learned counsel has submitted that the enquiry officer came to a result as mentioned in the enquiry report itself that no substantial proof

regarding travelling of the claimant could be found on the date of the incident and the claimant did not provide the ticket during enquiry and it was recorded in the enquiry report that only Rohit Mishra had stated that the injured person was lying on the railway track which casts a cloud of suspicion in his statement and ultimately recorded that the reason for injury could not be ascertained. Ultimately, the claim was taken up before the Claims Tribunal.

7. The learned counsel has submitted that before the Claims Tribunal, the claimant supported his case by stating that the facts were mentioned in the prescribed form and brief particulars of the untoward incident was indicated therein. She has submitted that it was the specific case of the claimant that he had purchased the railway ticket; many local people had seen him purchasing the railway ticket; he boarded the train, but due to heavy rush, he got pushed and fell down and met with injury.

8. The learned counsel submits that before the Claims Tribunal, the claimant had filed his evidence on affidavit and had fully supported the statement made in the claim petition and has further stated that he had given the details of purchase of the ticket and that he had boarded the train and was going to meet his sister after having darshan at Baba Dham. The claimant has also stated that he had purchased the ticket in presence of his co-villager Bullu Das who had also purchased the ticket for Simultala and Bullu Das got down from the train at Jasidih and the claimant continued with his journey and ultimately the incident took place when he fell from the running train. She has submitted that the witness (claimant) has been duly cross-examined and his evidence remained intact. There was no cross-examination of this witness with respect to his previous statement which was in fact disbelieved by the enquiry officer of the railway authority also who was of the view that the cause of the incident could not be ascertained.

9. She has also submitted that since many villagers had taken ticket, therefore one of the villagers, namely, Bullu Das was examined as AW-2

before the learned Tribunal and he had also fully supported the version and the claim of the claimant. This witness has also been cross-examined and his examination-in-chief remained intact and he had fully supported the case of the claimant.

**10.** The learned counsel has submitted that the learned Tribunal has considered the evidences and primarily based its finding on the ground that the claimant did not specifically mention the name of Bullu Das in his original claim application that Bullu Das had also purchased the journey ticket and was travelled with him. The learned counsel has submitted that it was stated in the claim petition that number of co-villagers were travelling in the train and ultimately the claimant had examined Bullu Das and it was also specifically mentioned in the claim petition that evidence/witnesses will be produced at the time of hearing of the case.

**11.** The learned counsel has submitted that though the first responder of the incident, namely, Rohit Mishra was not examined before the learned Tribunal, but he had given his statement twice; once at the time of *sanha* wherein he stated that the victim i.e. the claimant had fell down while un-boarding the train and thereafter on 30.03.2019 where again he had supported his statement. Although statement of Rohit Mishra was based on the statement made by the people who gathered around the incident, and he was not the eye-witness, but he was the first responder and it cannot be disputed that the claimant was travelling on the train. The learned counsel has submitted that the evidence on affidavit filed by the claimant and Bullu Das having remained intact, there was no reason to deny the compensation to the claimant.

**12.** The learned counsel has relied upon the judgment passed by the Hon'ble Supreme Court reported in **(2019) 3 SCC 572 (Union of India vs. Rina Devi)** and has submitted that in the said case also, the deceased had purchased the ticket but he had ultimately expired and ticket was not recovered from his possession. She submits that the Hon'ble Supreme court ultimately held that mere presence of a body on the Railway

premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger and initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and then the burden would shift to the Railways and such decision would be based on case-to-case basis. Paragraph 29 of the aforesaid judgment is quoted as under: -

*“29. We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly”*

13. The learned counsel has then relied upon the judgment passed by the Hon’ble Supreme court in ***Appeal (Civil) No. 6898 of 2002 (Union of India vs. Prabhakaran Vijaya Kumar & Others)*** and has submitted that principle of strict liability applies in a case arising out of claim relating to railway incident.

#### **Arguments of the respondent-railway**

14. Learned counsel appearing on behalf of the respondent-railways has opposed the prayer and has submitted that the learned Tribunal has rightly referred to the improvement made by the claimant, inasmuch as, the claimant did not disclose the name of Bullu Das in his claim application and the learned tribunal has rightly come to the conclusion that the evidence of Bullu Das was not reliable. The learned counsel has referred to the report of GRM and has submitted that the claimant had a different version given at the stage of enquiry by the authority wherein he had

stated that though he had purchased the ticket but had boarded a wrong train and since the train was going to Asansol he jumped down from the running train and he ultimately got injured and became unconscious and gained his consciousness in the Sadar Hospital. However, in his statement he had mentioned that he had bought the ticket from BDME Railway Station for Baidyanath Dham to Simultala but he had lost the Railway ticket.

**15.** The learned counsel has referred to the provision of Section 124(A) of the Railways Act and has submitted that such an act of jumping from the train comes under exception and it is a ‘self-inflicted injury’ by the claimant and therefore also the claimant is not entitled to any compensation under the Railways Act. The learned counsel has submitted that the impugned judgment passed by the learned Tribunal does not call for any interference.

**16.** However, during the course of arguments, he has not been able to show any material that the claimant during his evidence recorded before the learned Tribunal was confronted with his earlier statement given by him at the stage of enquiry and also mentioned in the enquiry report.

### **Findings of this Court**

**17.** The only *point for determination* in this appeal is as to whether the learned tribunal has erred in rejecting the claim of the claimant?

**18.** After hearing the learned counsel for the parties and considering the facts and circumstances of this case, it is not in dispute that the claimant was found in an injured condition on the railway track on 12.12.2016; he was taken to the hospital and arising out of accident his one leg was amputated. It is further not in dispute that the first responder was one Rohit Mishra at whose instance a *sanha* was lodged and he had come to the place of occurrence immediately after the incident when he heard commotion and upon reaching the place of incident, he was informed by the crowd that the injured person jumped from the train No. 63564 which is the same train involved in the present case. Admittedly, Rohit Mishra

was not the eye witness to the incident. Rohit Mishra was not examined as witness before the learned Tribunal.

**19.** This Court also finds that as per the records the statement of the victim as well as the statement of the first responder Rohit Mishra was recorded at the stage of enquiry and it has been recorded therein that so far as the claimant is concerned, he stated that he purchased the railway ticket from BDME Railway Station for Baidyanath Dham to Simultala and it was also recorded that the claimant stated that the claimant boarded a wrong train and when he found that the train was going in a different direction, he jumped from the train. The enquiry officer failed to mention in the enquiry report that even as per the statement of the claimant at the first instance, he claimed to have purchased the ticket from BDME Railway Station for Baidyanath Dham to Simultala but stated that the ticket was lost during the incident. The enquiry officer ultimately came to a finding that the ticket was not found from the claimant and it was opined that the reason of injury could not be ascertained. The finding of the enquiry officer is as under: -

*“On going through all available evidences submitted by the claimant, it could be concluded that no substantial proof regarding travelling of claimant by train is found on the date of incident (as no ticket is provided by the claimant during enquiry) or the incident occurred in railway premises as neither any Railway authority has issued any memo nor any information/Memo issued by SM/JSME. It is also pertinent to mention that SM/KBQ is available round the clock but no memo is issued from his side, which clarify that no such incident happened on 12.12.2016. It is also found that there is no document found from GRPS/JSME, which could verify that GRPS/JSME visited the PO on said day and admitted the victim to hospital, who was lying in Railway Tracks in injured condition. Only Rohit Mishra stated that the injured person was lying in railway tracks, which casts a cloud of suspicion in his statement. However, the undersigned physically verified that the left leg of Sri Kishun Turi has been cut but it could not be ascertained that he got the injury in Railway premises/by Train.*

*Hence, it is opined that reason of injury could not be ascertained.”*

**20.** When the case was taken up before the Claims Tribunal, the claimant made the following statement in paragraph 6(b) which is the prescribed form for lodging a claim: -

*“6(b) On 12.12.2016, after purchasing and having a valid 2<sup>nd</sup> class ordinary ticket for Baidyanath Dham Station to Madhupur Jn. I, the injured (applicant) namely Kishun @ Kisun Turi boarded in Baidyanath Dham – Asansol EMU passenger train for going to Madhupur Jn. The said valid ticket was purchased by the injured (applicant) in presence of some villager after worship of Lord Shiva. There was heavy rush in the said train which compelled me to stand near the gate inside the bogie. The passengers were jostling one another for space near the gate of the bogie. In route while the said train started & moved forward from Kumrabad Rohini Station I, the injured who was standing near the gate inside the bogie accidentally fell down from the moving train near Pole No. 317/28 of the down line of Kumrabad Rohini Station due to intense jostling amongst the passengers near the gate of the bogie on account of heavy rush as said above. As a result of which I, the injured lost my one leg & also sustained other serious injuries. The local people admitted me in Sadar Hospital, Deoghar for my treatment. After getting information my family members reached at the said Sadar Hospital, where my treatment was going on. In this regard S.D.E. (Sanha) No.08/16 & 09/16 have registered on 13.12.2016 and 04.01.2018 at Rail P.S. Jasidih. The Rail Police has investigated the matter & found that the factum of occurrence is true & I (applicant) sustained serious injuries including lost my one leg during the aforesaid untoward incident. I, the injured also known as Kisan Turi.”*

**21.** Although the claimant had stated that he had purchased a valid ticket in present of some villagers after worship of Lord Shiva he boarded the Baidyanath Dham – Asansol EMU passenger train for going to Madhupur junction and there was heavy rush in the train, but in description of particulars, he had not given the name of any one or the other co-villager in whose presence he had purchased the ticket. However,

in column 18, the claimant had stated that he would produce evidence/witness, if required, at the time of hearing of the case.

**22.** Ultimately, when the case was taken up, the claimant had filed evidence on affidavit and stated that he had darshan at Deoghar on 12.12.2016 and he came to Baidyanath Railway Station and boarded the train from Baidyanath Dham to Shankarpur Station (Madhupur) under a valid second-class ticket in the train involved in this case and he was to go to meet his sister. The claimant has also stated that he purchased the ticket along with Bullu Das who had also purchased the ticket and boarded the train and both of them were travelling in the train and was standing near the bogie on account of heavy crowd. He has further stated that when the train left Kumrabad Rohini Station he was pushed and fell down from the train. He has further stated that during the course of his accident and his treatment, the ticket was got misplaced and he was not in a position to produce the ticket. The claimant has been duly *cross-examined* and he has fully supported his case. He has also stated that at the time of travelling, nobody was with him and Bullu Das was actually travelling with him and he wanted to go to Jasidih and got down at Jasidih Railway Station. He has also stated that Bullu Das had seen him purchasing the ticket and the cost of ticket was Rs. 10/- from Deoghar to Shankarpur.

This court finds that during the course of cross-examination, claimant has *neither* been confronted with the previous statement said to have been made before the enquiry officer *nor* he was put any question regarding any improvement while making his statement before the learned Tribunal. A suggestion was put to the claimant that due to his own mistake, he was travelling in wrong train and when he came to know that he was travelling in wrong train he jumped over but this suggestion was denied by him.

The other witness, namely, **Bullu Das** has fully supported the case of the claimant and this witness was also cross-examined. This witness has clearly stated that both the claimant and himself (Bullu Das) got the ticket together and both had boarded the train but he got down earlier in Jasidih

Railway Station to go to Simultala and the claimant continued his onward journey in the train. He denied the suggestion that he was giving false evidence to help his friend.

**23.** This Court finds that the claimant as well as the witness Bullu Das have fully supported the case. They were cross-examined and their evidence remained intact. The claimant was neither confronted with his previous statement at the stage of enquiry before the learned Tribunal nor the claimant was put any question alleging improvement in his case over and above whatever narration of fact was stated in his claim petition. The fact remains that even at the stage of enquiry the claimant had stated that he had purchased the railway ticket but the same was lost during the incident. Admittedly, the claimant has deposed before the learned tribunal that he had purchased the ticket in presence of villagers and had also stated that he would produce witness if required and ultimately Bullu Das, a co-villager was produced as a witness before the learned Tribunal.

**24.** This Court has gone through the impugned order and finds that the learned Tribunal has recorded that on the one hand, the claimant in his statement has stated that he was traveling alone and immediately after this answer, he stated that Bullu Das and the claimant had bought the journey ticket and Bullu Das was travelling with the claimant but the name of Bullu Das did not appear in the original claim application. On this basis the learned tribunal has drawn an inference that there are contradictions in the statements.

**25.** The learned Tribunal referred to GRP diary entry dated 13.12.2016 which mentioned that a person was lying in injured condition near Rohini Halt, but it did not indicate any accidental fall from train of any person and that the respondents also have no evidence that any person had fallen down from a running train. The learned Tribunal also held that it was not adequately established that the claimant might have fallen down from a running train and observed that the claimant might have been injured while he was crossing the railway track and that there was no evidence

regarding fall from any specific train. The learned Tribunal recorded that non-recovery of journey ticket puts a cloud of doubt regarding bonafide status of the claimant. The learned Tribunal thereafter observed that the claimant failed to establish both that he was a bonafide passenger on the date of accident and that he was a victim of an untoward incident involving fall from a running train. Apart from that the learned Tribunal referred to Section 124-A of the Railways Act and observed that no compensation shall be payable if the passenger dies or suffers injuries which is interalia of a self-inflicting nature and held that there is preponderance of probabilities that the injuries sustained by the claimant falls within the exception under Section 124-A of the Railways Act.

**26.** This Court finds that the sequence of event as narrated and proved by the claimant before the learned Tribunal is that he bought the ticket and boarded the train with Bullu Das but at the time of incident Bullu Das was not with him as he had got down in the previous station at Jasidih. This aspect of the matter appears to have been ignored by the learned Tribunal and the sequence of statement made by the claimant in his cross-examination clearly depicts the actual picture. This Court also finds that so far as the non-mentioning of name of Bullu Das in claim petition is concerned, the claimant had stated in his claim petition that he was travelling with villagers and had also stated that he would produce witness and no such cross-examination has been made with respect to the claimant regarding non-disclosure of the name of Bullu Das in his claim petition or that he had improved his case by producing false witness of Bullu Das. There was no suggestion that the claimant might have got injured while crossing the railway line or that he was not travelling in the train as disclosed by the claimant. Rather the claimant was put a question at the time of his cross-examination by the opposite party that the claimant had jumped from the train but the claimant declined. Further the claimant was not confronted with his previous statement said to have been made at the stage of enquiry.

27. The Hon'ble Supreme Court in the case of **(Union of India vs. Rina Devi) (supra)** has held that mere loss of ticket may not be a ground to refuse compensation, although the initial burden is on the claimant and this can be discharged by filing an affidavit of relevant fact. This has been duly complied in the present case and the evidence of the claimant and witness Bullu Das having remained intact before the learned Tribunal, there was no reason to deny compensation to the claimant. Paragraph 29 of the aforesaid judgement is quoted as under: -

*“29. We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.”*

28. The Hon'ble Supreme court in **Appeal (Civil) No. 6898 of 2002 (Union of India vs. Prabhakaran Vijaya Kumar & Others)** has held that since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Paragraph 11 of the said judgement is quoted as under: -

*“11. No doubt, it is possible that two interpretations can be given to the expression 'accidental falling of a passenger from a train carrying passengers', the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one.*

*Hence in our opinion the latter of the abovementioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred vide Kunal Singh vs. Union of India (2003) 4 SCC 524(para 9), B. D. Shetty vs. CEAT Ltd. (2002) 1 SCC 193 (para 12), Transport Corporation of India vs. ESI Corporation (2000) 1 SCC 332 etc.”*

29. Considering the totality of facts and circumstances, this Court is of the view that the learned Tribunal has not appreciated the materials on record properly while coming to a finding that the claimant failed to prove that he was a bonafide passenger and that he was a victim of an untoward incident involving falling from a running train. This court is of the considered view in the light of the discussions made above that the claimant has proved both the aforesaid points that he had bought the ticket and boarded the train and fell down from the running train and got injured leading to amputation of his one leg. The learned tribunal has erred in rejecting the claim of the claimant and accordingly the impugned judgement is set-aside. The claimant is entitled for compensation as claimed.

30. There is no dispute so far as nature and the extent of injury suffered by the claimant is concerned.

31. There is no dispute regarding the amount of compensation. Even during the course of argument, a specific inquiry has been raised to the learned counsel for the respondent on the point of quantum of compensation and he has also submitted that if the court allows the case of the claimant, then there is no dispute on the quantum.

32. Considering the nature of injury, the claimant would be entitled for compensation as per Rule 3 Part III (18) of Railway *Accidents and Untoward Incidents (Compensation) Rules, 1990*, which is quoted as under: -

*“18. For amputation below hip with stump exceeding 5” in length measured from tip of great trochanter but not beyond middle thigh. 2,80,000.”*

**33.** The aforesaid amount will be payable with interest @ 7% per annum from the date of the accident till the date of payment.

**34.** This appeal is *allowed* in the aforesaid terms.

**(Anubha Rawat Choudhary, J.)**

*Dated: 28.07.2025*

*Mukul/-*