

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No. 361 of 2024

Smt. Putul Saha, wife of Late Sapan Kumar Saha, aged about 50 years, R/o Village/Mohalla- Kali Tala Bara Durgapur, P.O. & P.S. Barharwa, District- Sahebganj, Pin-816101 (Jharkhand), presently residing at Chaldhawanipara, Ward No.11, P.O. & P.S. Rampurhat, District- Birbhum (West Bengal)

... Appellant

-Versus-

Union of India through the General Manager, Eastern Railway, Kolkata, P.O. & P.S. Garden Reach, District- Kolkata (West Bengal)

... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant : Mrs. Chainika, Advocate
For the Respondent : Mr. Chandra Prakash, C.G.C.
Mr. Shiv Kumar Sharma, C.G.C.

06/08.05.2025 Heard Mrs. Chainika, learned counsel appearing for the appellant and Mr. Chandra Prakash, learned counsel appearing for the respondent-Railway.

2. This appeal has been preferred being aggrieved with the judgment dated 09.02.2024 passed by the learned Railway Claims Tribunal, Ranchi Bench in Case No.-OA(IIU) RNC/54/2019 (Checklist No.-2907190002), whereby, the learned Tribunal has been pleased to reject the claim of the appellant on the ground that the case of the appellant is not coming within untoward incident in light of Section 123(c)(2) of the Railway Act, 1989.

3. Learned counsel for the appellant submits that the deceased Sapan Kumar Saha was travelling from Nimita Railway Station to Barharwa Railway Station and boarded a train Azimganj-Barharwa passenger train in 2nd class general bogie at Nimita on 04.11.2013 after purchasing a valid 2nd class ticket. She further submits that due to heavy rush on the train and the passengers were jostling amongst for space near the gate, the deceased accidentally fell from the running train near Barharwa Railway Station and died on the spot by sustaining serious injuries. She submits that after getting information

about the incident, the brother of the deceased namely Ascharya Kumar Saha reached the place of occurrence and identified the dead body as his brother Sapan Kumar Saha and then told the wife of the deceased about the incident. On the basis of application submitted by the brother of the deceased, Barharwa Rail P.S. U.D. Case No.15 of 2013 was registered on 04.11.2013. She then submits that the Railway Police investigated the case and prepared the inquest report dated 04.11.2013 and found the factum of occurrence to be true and found that the deceased died as a result of falling from Azimganj-Barharwa passenger train bearing No.53035 and run over by another train. She also submits that further the Railway Police also prepared a final report dated 04.11.2013 and concluded that the deceased died as a result of falling from the said passenger train and being run over by another train. She further submits that while preparing the final report, the police recorded the statements of Pachu Singh, Parmeshwar Saha and Durga Saha, who are independent witnesses and they have also supported the case of accidental death of the deceased. She submits that the deceased was a *bonafide* passenger travelling from Nimita Railway Station to Barharwa Railway Station and he had purchased a valid ticket to travel from Azimganj-Barharwa, however, the said ticket was lost during the accident and the learned Tribunal on that point has found that the ticket was not there and in view of that, he was not a *bonafide* passenger. She further submits that only relying on the statement of R.W.1, namely, Altaf Sheikh, the learned Tribunal has come to the conclusion that the deceased was not the *bonafide* passenger. She further submits that however the documents on record like final form submitted by the Railway Police, statement of R.W.2-I.O., who has stated that there was

no eye-witness and further statement of R.W.4- Ascharya Kumar Saha, who has stated that the ticket was purchased by his brother and in view of that, the finding of the learned Tribunal is not correct. She submits that it is a welfare statute and in view of that, lenient view is required to be taken, whereas, the learned Tribunal has rejected the claim case of the appellants.

4. On the other hand, learned counsel appearing for the respondent-Eastern Railway opposed the prayer and submits that the learned Tribunal has rightly held that the deceased was not a *bonafide* passenger and the ticket was not found from the body of the deceased and the body was found to be cut at the place of occurrence and in light of that, the case has been proved by the Railway. He relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Kamrunnissa v. Union of India***, reported in ***(2019) 12 SCC 391*** and submits that in view of the said judgment, the case of the Railway is covered and, as such, this appeal may kindly be dismissed.

5. In view of the above submissions of the learned counsel for the parties, the Court has gone through the materials on record including the Trial Court Records and finds that it is an admitted position that the body of the deceased Sapan Kumar Saha was recovered on 04.11.2013. The brother of the deceased, namely, Ascharya Kumar Saha has lodged the case, wherein, he has stated that his brother was standing near the gate of the train and due to jostling among the passengers, the deceased fell from the running train and due to that accident, he has died. In the report, the Railway Police has also recorded that the deceased has fallen down from the train and due to that, he has died. The inquest report on the record clearly suggests that the deceased was travelling in Azimganj-Barharwa passenger train bearing

No.53035 and reason of accident is said to be falling from the train and due to that, the death has occurred. In view of all these documents as well as the statement of Ascharya Kumar Saha before the learned Tribunal, it is proved that the deceased was travelling in the train and due to falling, the said accident has taken place. Merely no recovery of railway ticket from the body of the deceased, there cannot be a ground to suspect that the deceased was not travelling in the train in view of the fact that by way of inquest report and report of the Railway Police, the accident due to falling from train has been proved. In view of that, it is crystal clear that due to falling from the train, the said accident has taken place.

6. From the record, it further transpires that arrival time of the said train was sought from the ASI, R.P.F., however, the Station Manager of the Eastern Railway, Barharwa on the said document has stated that due to old record, the above required information is not available in the office. Thus, the Railway has failed to prove timing of arrival of the said train.

7. In light of the above, it is proved that the deceased was travelling in the train and accident occurred due to falling from the train.

8. The Hon'ble Supreme Court in the case of ***Union of India v. Prabhakaran Vijaya Kumar & Ors.***, reported in ***(2008) 9 SCC 527*** held that since the provision for compensation in the Railway Act is a beneficial piece of legislation it should receive a liberal and wider interpretation and not a narrow and technical one.

9. Sub-section 29 of Section 2 of the Act defines "passenger" to mean a person travelling with a valid pass or ticket. Section 123 (C) of the Act defines "untoward incident" to include the accidental falling of any passenger from a

train carrying passengers. Section 124-A of the Act speaks of compensation on account of untoward incident, which is quoted herein below:

"124A. Compensation on account of untoward incident.- *When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:*

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to –

- (a) suicide or attempted suicide by him;*
 - (b) self-inflicted injury;*
 - (c) his own criminal act;*
 - (d) any act committed by him in a state of intoxication or insanity;*
 - (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.*
- Explanation - For the purposes of this section, "passenger" includes*

- (i) a railway servant on duty; and*
- (ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident."*

10. Looking into proviso of the said Section, it is apparent that the accident in which the deceased died is clearly not covered by proviso of Section 124-A. The accident did not occur because of any reasons mentioned in Clauses (a) to (e) of proviso of Section 124-A. This is very much clear that the case in hand is covered by the main body of Section 124-A of the Act. In view of that, Section 124-A lays down strict liability or no fault liability in case of railway accidents. If a case falls in main body of Section, it is wholly irrelevant as to say who was at fault.

11. The Hon'ble Supreme Court in the case of ***Jameela v. Union of India***, reported in ***2010 (12) SCC 443*** has held that standing at the open doors of the compartment of a running train may be a negligent act, even a rash act but, without anything else, it is certainly not a criminal act.

12. In view of the above, credence is very much there of the factum of death on account of fall from a train, because the place of death is neither near the residence nor the work place of the deceased for the accident to be of any form of criminal negligence/self-inflicted injury of wrongly standing on the railway tracks or crossing of the railway tracks.

13. So far as the judgment relied by the learned counsel for the respondent-Railway in the case of ***Kamrunnissa v. Union of India (supra)*** is concerned, the fact of that case was otherwise. In that case, from the inquest report it was found that the body of the deceased was found on road and had been cut into two pieces and was lying next to the railway track and in the FIR, it was stated that the deceased was seen coming from the direction of Bangalore and while crossing the railway track, he having not noticed the oncoming train and he was overrun by the train. In that fact, the said judgment was delivered by the Hon'ble Supreme Court, however, what has been discussed herein above, the fact of that case was otherwise and, as such, the said judgment is not helping the respondent-Railway.

14. In view of the above facts, reasons and analysis, the Court finds that there is perversity in the award passed by the learned Tribunal and, as such, the judgment dated 09.02.2024 passed by the learned Railway Claims Tribunal, Ranchi Bench in Case No.-OA(IIU) RNC/54/2019 (Checklist No.-2907190002) is, hereby, set-aside.

15. The respondent-Railway shall pay a sum of Rs.8 Lakhs in terms of Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rule, 1990 along with interest @ 9% per annum from the date of accident to the appellant, within a period of eight weeks from the date of receipt/production of a copy of this order.

16. Accordingly, this appeal is allowed in above terms and disposed of.

17. Let the Trial Court Records be sent back to the concerned Court forthwith.

(Sanjay Kumar Dwivedi, J.)

Ajay/ **A.F.R.**