

IN THE HIGH COURT OF JHARKHAND, RANCHI
M.A. No. 366 of 2024

- 1.** Balmiki Sav @ Balmiki Prasad, son of Late Pancha Sav, aged about 59 years
- 2.** Munni Devi, wife of Balmiki Sav @ Balmiki Prasad aged about 61 years

Both are resident of village/mohalla – Chaudiha, PO – Dundo,
PS – Jamui, District – Jamui – 811307 (Bihar)

.... Appellants

-- Versus --

Union of India through the General Manager, Eastern Railway,
Kolkata, PO and PS – Garden Reach and District – Kolkata
(West Bengal)

.... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants	:-	Mrs. Chaitali C. Sinha, Advocate
	:-	Mrs. Chainika, Advocate
For Respondent	:-	Mr. Abhijeet Kr. Singh, Advocate
	:-	Mr. Shashank Kumar, Advocate

03/09.07.2025 Heard learned counsel appearing for the appellants and
learned counsel appearing for the respondent - Railway.

2. This appeal has been preferred against the judgment dated
10.11.2022 passed by learned Railway Claims Tribunal, Ranchi
Bench in Case No. OA(IIU) RNC/37/2019 (Checklist
No.2905190004) in an application under Section 16 of Railway
Claims Tribunal Act, 1987 whereby the claim made by the appellants
herein has been rejected by the learned Tribunal.

3. Learned counsel appearing for the appellants submits that
deceased Suman Kumar @ Suman Kumar Varma was travelling from

Deoghar to Jamui along with a co-villager Arun Kumar Yadav and boarded a train bearing No.18183 Tata – Danapur Express in 2nd class general bogie at Jasidih on 19.08.2018 after purchasing a valid 2nd class ticket bearing ticket No.12214007. The other villagers were also coming back with the deceased and boarded the same train but they were in another bogie as there was heavy rush due to the occasion of Shravani Mela. She submits that there was heavy rush in the train amongst the passengers for space near the gate. In route, while the said train was passing near Rajla Halt Station (TP No.362/29), the deceased who was standing near the gate accidentally fell from the running train near KM/Pole No.362/29 due to the intense jostling among the passengers and died on the spot by sustaining serious injuries. In this background, she submits that the accident has come into the knowledge of the railway and the information has been received about the incident from co-passenger of the deceased namely Arun Kumar Yadav and thereafter the brother of the deceased namely Kamlesh Kumar Verma along with villagers reached to the place of occurrence and identified the dead body as his brother namely Suman Kumar @ Suman Kumar Varma pursuant to that on the written application of the brother of the deceased U.D. Case No.15/18 was registered at Rail Thana, Jhajha on 20.08.2018. She submits that the railway police investigated the case and prepared the inquest report in U.D. Case No.15/18 dated 20.08.2018 registered with Rail Thana, Jhajha and found the factum of occurrence to be true and found that the deceased died as a

result of falling from Tata-Danapur Express bearing Train No.18183. She further submits that the railway police also prepared a final report dated 20.08.2018 in the aforementioned U.D. Case No.15/18 and concluded that the deceased died as a result of falling from Tata-Danapur Express bearing Train No.18183. She submits that the police while preparing the final report also recorded the statement of Arun Kumar Yadav who was the co-passenger of the deceased and was also travelling in the said train from which the deceased accidentally fell down and died. She submits that the deceased was a bona fide passenger and boarded Tata – Danapur Express bearing Train No.18183 from Jasidih Station to Jamui Station on 19.08.2018 after purchasing a valid 2nd class ticket bearing Ticket No.12214007. She submits that the appellant No.1, who is the father of the deceased and the co-passenger of the deceased namely Arun Kumar Yadav have filed their affidavit before the learned Tribunal to support accident and about the bona fide passenger of deceased. She further submits that the learned Tribunal has been pleased to reject the claim of the appellants only on the ground that the said ticket was said to be purchased at 14:49 hours whereas the train in question has reached JSME at 14:16 hours and left at 14:19 hours. She submits that further since Arun Kumar Yadav is not the witness on the inquest report and that is why the claim of the appellants have been rejected. She submits that however Arun Kumar Yadav was the witness on the affidavit before the learned Tribunal and in the final report prepared by the police. She submits that it cannot

be presumed that the deceased had purchased ticket after the accident. On this ground, she submits that the Railway Act is a beneficial piece of legislation and only on the hyper technical ground the learned Tribunal has been pleased to reject the claim.

4. On the other hand, learned counsel appearing for the respondent – Railway draws the attention of the Court to the impugned award and submits that the learned Tribunal has rightly passed the said order as the ticket was said to be generated at 14:49 hours whereas the train in question reached the station at 14:16 hours and left at 14:19 hours. On this ground, he submits that the appeal may kindly be dismissed.

5. In view of the FIR, inquest report and final report of the police the accident and death are proved. In the final report which is at page 19 of the trial court record and the inquest report which is at page No.20 of the trial court record clearly suggests that the accident took place due to falling from the train. Final form has been made by way of making an enquiry and even Arun Kumar Yadav a co-passenger was also examined that has been further supported on evidence by the appellant No.1 who happened to be the father of the deceased and the railway has not been able to prove before the learned Tribunal by way of adducing any document or evidence that accident has not taken place due to not falling from the train. Thus, the death due to falling from the train has been proved and the reason of not allowing the claim by the learned Tribunal of generation of ticket at 14:49 hours and reaching of the

train at the station at 14:16 hours and leaving the station at 14:19 hours doesn't sound to be a good one in view of the fact that deceased is already met with an accident and it is not possible that he will manage the tickets after the said accident. It is further admitted position that the ticket in question was recovered from the possession of the deceased from the spot which has come in the final report as well as inquest report. In this background, when it is presumed that the deceased was not having the ticket, however, in the case in hand the facts is otherwise, the claim cannot be rejected merely on the ground that the ticket was not found from the possession of the deceased and for that many factors of not recovery of the ticket from the possession of the deceased can be due to accident the loss of the ticket cannot be ruled out. There are other analogy also, however, in the case in hand the ticket was recovered and the onus lies upon the railway to prove that the ticket was not purchased by the deceased which the railway has not been able to do. Further the claim can be rejected, if it is coming within the proviso of Section 124A of the Indian Railway Act, the accident did not occur because of any of the reason mentioned in Clauses A to E of the proviso up to Section 124A of the Indian Railway Act. The case in hand is covered by the main body of Section 124A of the Act, thus it is crystal clear that Section 124A lays down strict liability or no fault liability in case of railway accident, if a case falls in main body of Section 124A of the Indian Railway Act it is wholly irrelevant that what was at fault.

6. Standing at the open doors of a 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. Thus, the case of the Railways must fail even after assuming everything in its favour.

7. Considering the balance of probabilities, as per which, civil cases have to be decided, the deceased, in fact quite clearly had died on account of a fall from a train in view of the documents of the respondents, inquest report at Exhibit A4 and final report at Exhibit A/7.

8. 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.

9. In light of the above facts, reasons and analysis, the Court finds that the award of learned Tribunal is not sustainable in the eye of law, as such the impugned award dated 10.11.2022 passed by learned Railway Claims Tribunal, Ranchi Bench in Case No. OA(IIU) RNC/37/2019 (Checklist No.2905190004) is hereby set aside.

10. The appellants herein shall be entitled for a compensation amount of Rs.8,00,000/- with interest @ 7.5% from the date of accident in light of judgment of Hon'ble Supreme Court in the case of ***Union of India vs. Rina Devi reported in AIR (2018) SC 2362.***

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

12. Let the trial court record be sent back to the learned Tribunal forthwith.

13. The Railway shall comply this order within eight weeks from the date of receipt/production of copy of this order.

(Sanjay Kumar Dwivedi, J.)

Sangam/

A.F.R.