

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
M.A. No. 358 of 2023**

1. Sri Sabir Khan, aged 57 years, father of deceased Jahir Hussain
2. Smt. Shairun Nisha, aged 41 years, mother of deceased Jahir Hussain  
Both resident of Village/Mohalla- Ward No.07, Panchayat Jainagar East,  
P.O. & P.S. Jainagar, Dist. Koderma- 825109 (Jharkhand)

**... Appellants**

**-Versus-**

Union of India through the General Manager, Eastern Railway, Kolkata,  
P.O. & P.S. B.B.D., Bagh, Distt. Kolkata- 700001

**... Respondent**

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**CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

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For the Appellants : Ms. Saumya Pandey, Advocate  
For the Respondent : Mr. Awanish Ranjan Mishra, C.G.C.

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07/13.06.2025 Heard Ms. Saumya Pandey, learned counsel appearing for the appellants and Mr. Awanish Ranjan Mishra, learned counsel appearing for the respondent-Railway.

**2.** This appeal has been preferred against the part of the award dated 23.05.2023 passed by the Railway Claims Tribunal, Ranchi in Claim Case No.OA(IIU)/RNC/19/2022.

**3.** Learned counsel appearing for the appellants submits that the deceased namely Jahir Hussain died due to fall from the running train. She submits that the claimants have filed the claim application before the Railway Claims Tribunal, Ranchi, which has been rejected vide award dated 23.05.2023. She further submits that on 02.09.2021, the deceased boarded the Chhatrapati Shivaji Terminus-Howrah Special Train No.02322 at Chhatrapati Shivaji Terminus to go to Koderma with a valid ticket bearing PNR No.8741098098 dated 02.09.2021. The deceased reached his destination station Koderma on 04.09.2021 but due to crowd in the train, he could not

get down from the train. When the train left Koderma, the deceased fell down from the running train while trying to get down and died. She submits that in this background, U.D. Case No.25/2021 dated 04.09.2021 was registered by the GRPS, Koderma. She then submits that the ticket was recovered from the body of the deceased and in spite of that, the learned Tribunal has rejected the claim case of the claimants. She also submits that A.W.1 has stated that the incident took place at Koderma in Chhatrapati Shivaji Terminus-Howrah train and that has been further corroborated by the investigation report submitted by the Sr. D.S.C., Dhanbad, who has stated that on 04.09.2021 P.A./Koderma received an information from Trackman Gajhandi that an unknown dead body was lying between Koderma-Larabad at KM No.392/2024 UP and DN Line and that information was forwarded to G.R.P., Koderma by the Station Manager, Koderma. The inquest report was prepared at the place of occurrence by the G.R.P., Koderma, in which, it has been stated that the death has occurred due to fall from the train No.02322 DN. She also submits that from the dead body, one journey ticket having PNR No.8741098098, Coach No. S-6, Berth No.80 and one Aadhar Card were recovered during inquest. She submits that in this background, it is proved that the deceased was travelling in the said train with valid ticket and he died due to fall from the train and in spite of that, the learned Tribunal has erroneously rejected the claim application of the claimants.

**4.** Mr. Awanish Ranjan Mishra, learned counsel appearing for the respondent-Railways submits that the incident is not coming within the meaning of untoward incident in light of Section 123(c)(2) of the Railways Act. He submits that the dead body was recovered from the side of the track

and in view of that, falling from train is not proved. According to him, the learned Tribunal has rightly appreciated the facts and passed the order and there is no illegality in the impugned award. On these grounds, he submits that 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. It is an admitted position that in light of the documents and statement of the witnesses, the deceased was travelling in Chhatrapati Shivaji Terminus-Howrah Special train No.02322. From the body of the deceased, train ticket has also been received, which further strengthens the case of the claimants about travelling in the said train. The inquest report, postmortem report, final report and FIR on fardbeyan which are on the record further suggest that the accident took place due to fall from the train. Thus, travelling in the train and fall from train have been proved, however, the learned Tribunal considering that the deceased was trying to get down from the running train and in view of that the accident took place and in that view of the matter, the learned Tribunal has rejected the claim case of the claimants.

**6.** On perusal of the FIR, inquest report, report of the Railways all these documents leave no room for any doubt that the deceased was travelling in the said train on valid ticket and he died due to fall from the train. In the case in hand, there is no evidence to show that the deceased died due to his own fault.

**7.** Section 123(c)(2) of the Railways Act, 1989 speaks 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 miscreant 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.

**8.** Judicial notice can be taken of the fact that for want of space inside the compartment, commuters have to stand at the door. In view of that, by no stretch of imagination any negligence can be attributed to the deceased. It does not lie in the mouth of the railway administration to say that as the deceased passenger was standing on the foot board near the door of the compartment, he was negligent. It is an accepted fact that in India, the passengers are forced to stand near the door due to perpetual overcrowding of the trains.

**9.** In light of the above, 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.

**10.** In view of the above facts, reasons and analysis, this appeal succeeds and, as such, the award dated 23.05.2023 passed by the Railway Claims Tribunal, Ranchi in Claim Case No.OA(IIU)/RNC/19/2022 is, hereby, set-aside.

**11.** The claimants-appellants shall be entitled to get compensation of Rs. 8,00,000/- along with interest @ 7.5% per annum from the date of the accident till the actual payment in light of the ratio laid down by the Hon'ble

Supreme Court in the case of ***Union of India v. Rina Devi***, reported in ***(2019) 3 SCC 572***. As such, the respondent-Railway is directed to comply this order within eight weeks from today.

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

**13.** Let the Trial Court Records be sent back to the learned court forthwith.

**(Sanjay Kumar Dwivedi, J.)**

*Ajay/ A.F.R.*