



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 19 March 2025**
Judgment pronounced on: 25 March 2025

+ **FAO 21/2023**

MANJU & ORS.

.....Appellants

Through: Mr. Rajan Sood, Ms. Ashima
Sood and Ms. Megha Sood,
Advs.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Anshuman, SPC with Mr.
Piyush Ahluwalia and Mrs.
Akanksha Tagra, Advs.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

DHARMESH SHARMA, J.

1. The appellants, who are a widow, two children and the mother of the deceased, Late Sh. Vivek Choudhary, have preferred this appeal under Section 23 of the Railway Claims Tribunal Act, 1987 ['RCT Act'] to set aside/quash the impugned order dated 26.08.2022 passed by the Railway Claims Tribunal ['RCT'] whereby the claim petition of the appellants/claimants under Section 16 of the RCT Act seeking compensation, on account of death of Lt. Sh. Vivek Choudhary in an 'untoward incident' involving the passenger train of the respondent, was dismissed.

2. Briefly stated, it was the case of the claimants/appellants that the deceased was travelling from Meerut City to Muzaffarnagar Railway



Station on 20.01.2019 by passenger train No.64557 when he accidentally fell from the running train at Meerut City Railway Station and died due to injuries sustained in the accident. It was however stated that his ticket was lost due to the incident.

3. Upon service of notice, Railways filed written statement and denied that the deceased fell from train No.64557 and it was rather stated that the deceased jumped in front of the running train and resultantly got injured and eventually died on the way to the hospital.

4. Based on the pleadings, learned RCT framed the following issues: -

- “1. *Whether the deceased was a bona-fide passenger in the train in question at the time of incident?*
2. *Whether there was any untoward incident as is defined under the provisions of Section 123 (c) read with Section 124(A) of Railways Act, 1989?*
3. *Whether the applicants are dependants of the deceased?*
4. *Whether the applicants are entitled for any relief and interest as prayed for in the application?*
5. *Relief if any?”*

5. The claimants/appellants in order to prove their case, examined Smt. Manju, wife of the deceased and brother-in-law Ashish Tomar as AW-1 and AW-2 respectively and relied on several documents including the DRM Report. On the other hand, Sanjay Tomar, Loco Pilot of Train No.64557 on the date of accident was also produced and examined.



6. The learned RCT decided issues no. 1 and 2 against the appellants/claimants. Hence, this appeal.

ANALYSIS & DECISION

7. Having heard the learned counsel for the parties and on perusal of the record including the digitized Trial Court record, this Court has no hesitation in holding that the present appeal is bereft of any merit.

8. First things first, it would be expedient to reproduce the findings recorded by the learned RCT on issues no. 1 and 2 which read as under:-

“6. These issues are taken up together as they are interconnected. Applicant Counsel reiterated the claim made that the deceased was travelling from Meerut City to Muzaffarnagar when he accidentally fell from 64557 Passenger Train and died as a result thereof. Respondent Counsel stated that the evidence of the Loco Pilot clearly establishes that the deceased had jumped in front of the train and had not fallen from any train. Moreover, no ticket was recovered from him and it was clear that the deceased was neither a bonafide passenger nor a victim of any untoward incident.

7. Arguments were heard and records have been perused. It is seen that the claimants have stated that the deceased was travelling from Meerut City to Muzaffarnagar by Train No. 64557 and fell from this train at Meerut City Station and died as a result thereof. No ticket was recovered from the deceased. The DRM Report includes a statement of Sanjay Tomar, Loco Pilot of Train No. 64557 who had stated to the RPF (Page 5 of DRM Report) that when his train was entering platform no. 3 of Meerut City Station one person had jumped in front of his train on the lines at about 19:13 hrs. and was hit by his train. Sanjay Tomar was produced as respondent witness and he has filed an affidavit and @ during his cross-examination he again stated clearly that one person had jumped in front of his train as it was entering the platform no. 3 of Meerut City Station. He has also filed copy of his Notebook in which it has been recorded that one person had jumped in from of his train at Meerut City Station. The Loco Pilot has also stated that he gave information about this to the Guard, Power Cabin and the Station Master on the Walkie Talkie. Record also shows that Train No. 64557 had entered Meerut City Station at 19:13 hrs. and as per the Driver's Notebook had departed from Meerut City Station at 19:18 hrs. The Station Master issued a memo at 19: 15 hrs. on 20.01.2019 to RPF and



GRP stating that one person has fallen and been injured by this train. As per the Driver's Notebook this train departed from Meerut City Station towards Muzaffarnagar at 19:18 hrs. whereas the memo had already been issued at 19:15 hrs. This makes it clear that the incident occurred before the departure of this train from Meerut City. Since the deceased is claimed to have fallen from this train while travelling from Meerut City to Muzaffarnagar, the timings clearly show that this could not be possible as he could not have boarded the train and fallen from it as the train had not even left Meerut City Station till 19:18 hrs., while information regarding the incident had already been conveyed to RPF and GRP earlier at 19:15 hrs.

8. The evidence of Sanjay Tomar, Loco Pilot is clinching and could not be shaken during his cross examination. From this evidence it is clear that the deceased had jumped in front of the train as it was entering at Meerut City Station. The timings also show that this train departed from Meerut City Station towards Muzaffarnagar only at 19:18 hrs. whereas the incident had already occurred between 19:13 and 19:15 hrs. Thus, the timings also support the version of the Respondent and the deceased could not have fallen from this train as the train had not even departed Meerut City Station. No ticket was recovered from the deceased and AW-2 Ashish Tomar has clearly been introduced only to falsely bestow the status of bonafide passenger on the deceased. All the evidences make it clear that the deceased was not a bonafide passenger and had jumped in front of the train and was, therefore, not a victim of any untoward incident. Thus, issue numbers 1 and 2 are both decided against the claimants.”

9. Needless to state, that in view of the abovementioned findings, issues no. 1, 3, 4 and 5 were decided against the appellants/claimants.

10. In view of the aforesaid reasoning *vis-a-vis* the documents placed on the record, it is borne out that the train entered the platform no.3 at about 19:13 hrs. when the deceased fell in front of the running train and the testimony of Sanjay Tomar in this regard remained unrebutted. It is also borne out that the train had departed at 19:18 hrs. Incidentally, the report about the accident had been recorded and was informed by the Station Master forming part of the DRM Report at 19:15 hrs. and therefore, in the absence of any cogent and reliable evidence that the



deceased was travelling in the aforesaid train, it is difficult to discern that the deceased died due to an untoward incident.

11. It appears that the deceased had jumped in front of the moving train, and therefore, the respondent is able to bring out a valid defence under Section 124A of the Railways Act, 1989. It goes without saying that no railway ticket was found on the body of the deceased. The learned RCT has rightly concluded that the testimony of AW-2 was not inspiring confidence.

12. At the cost of repetition, the testimony of Loco Pilot, Sh. Sanjay Tomar, is categorical to the effect that one person had jumped in front of the train and he had been removed from the track by RPF and some public person. He stated without any challenge that he informed the matter to RPF as well as the Station Master. The said witness examined on behalf of the respondent had no apparent motive to depose falsely on the said crucial aspect.

13. Therefore, this Court is unable to find any illegality, perversity or incorrect approach to facts or law in the impugned order dated 26.08.2022 passed by the learned RCT.

14. In view of the above, the present appeal is dismissed.

DHARMESH SHARMA, J.

MARCH 25, 2025/Ch