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

% **Date of decision: 06th May, 2025**

+ **FAO 120/2020**

CHANDER SHEKHAR & ANR

.....Appellants

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

versus

UNION OF INDIA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. No one appears for the respondent when the matter was called.
2. Having heard the learned counsel appearing for the appellants and on perusal of the record, this Court proceeds to decide the present appeal instituted by the appellants/claimants under Section 23 of the Railway Claims Tribunal Act, 1987 [**'RCT Act'**] seeking quashing of the impugned judgment-cum-award dated 31.10.2018 passed by the learned Presiding Officer, Railway Claims Tribunal, Principal Bench, Delhi [**'RCT'**], whereby their claim for statutory compensation on account of death of their son/Pankaj was dismissed.
3. In a nutshell, it was the case of the claimants that their deceased son Pankaj, was travelling by Gomti Express on 01.11.2016 from Shikohabad to New Delhi on a valid journey ticket bearing No. 10322307 dated 31.10.2016 and when the said train was passing



Ghaziabad Railway Station, he came near the gate of the train compartment and accidentally fell down from the moving train, as a result of which he sustained grievous injuries all over his body. It was claimed that though some public-spirited person got him admitted in Ambay Hospital, Ghaziabad, but his condition deteriorated and subsequently he was referred to GTB Hospital, Delhi where he succumbed to injuries sustained in the accident. Hence, they claim compensation from the respondent.

4. The respondent contested the claim petition and though based on the DRM report, it was acknowledged that the deceased died from a running train, it was averred that the deceased was guilty of gross negligence on his part. Further, it was denied that the deceased was a *bona-fide* passenger as it was claimed that the railway ticket from the jamatalashi was purchased from Shikohabad Railway Station at 22:54 hours on 31.10.2016 and it was not valid for undertaking the journey by Gomti Express Train on the subsequent day. The learned RCT based on the pleadings of the parties framed the following issues:-

- “1) Whether the ticket produced Is valid for the journey and the deceased is a passenger as defined under the Act?*
- 2) Whether the applicants are the legal heirs and dependants of the deceased within the meaning of Section 123(b) of the Railways Act, 1989?*
- 3) To what amount of compensation, if any, are the applicants entitled?*
- 4) Relief, if any?*

5. Suffice to state that the learned RCT found that the railway ticket was valid only for 24 hours of the day and it did not authorize the deceased to travel beyond 31.10.2016, whereas the accident



occurred early morning on 01.11.2016. Thus, the learned RCT while holding that the deceased was not a *bona-fide* passenger, also held that there was no evidence that he fell from the moving train and therefore, it was held to be not a case of 'untoward incident'. Aggrieved by the decision of the learned RCT, the appellants filed this present appeal.

6. At this stage, it would be apposite to reproduce the reasons which prevailed in the mind of the learned RCT while holding that the deceased was not a *bona-fide* passenger, which read as under:-

1. Ld. Counsel for the respondent railway states that every journey ticket issued by the railways for travel in an unreserved class has a validity period. In this connection, Commercial Circular No.5 of 2016, issued by the Railway Board on 22.01.2016, was produced before this Tribunal. A perusal of this circular indicates that upto a journey of 199 kms., a ticket is valid for 3 hours from the time of issue of the ticket or availability of first train for the destination station, whichever is later. However, this circular does not bring out clearly the period of validity of journey ticket for journey for a distance of 200 kms. or above. In the present case, the journey ticket, which was said to have been recovered from the dead body of the deceased, is seen to be for a distance of 246 kms. Obviously, the rule referred to above would not be applicable. The same circular also mentions that for the distance of 200 kms. or above, there will be no change in the existing provision. Ld. Counsel for the applicants wanted to know as to what is the description of the existing provision. She submitted in support of her understanding of the issue, a paper, which was said to have been downloaded from a website. As per this paper, an unreserved ticket for a distance of 200 kms. or above is stated to be valid for 24 hours and that the passenger must begin the journey within that time. A perusal of this paper, however, shows that it is in the form, of an answer given by one individual to a query raised in general by few individuals on a social media. Ld. Counsel for the applicant would not mention the name of the website from where the aforesaid paper was downloaded. A *prima-facie* perusal of this paper shows that it does not bear any authenticity as having been issued by the Ministry of Railways, Govt. of



India. Accordingly, the respondent railway was directed to submit an authentic document, which would clearly bring out the rules for validity of the ticket for a journey in an unreserved segment for distance of 200 kms. or above. The respondent railway has submitted a letter bearing No.TC-II/2002/2015/Val. Tickets dated 09.10.2018, issued by the Railway Board, New Delhi, in which it has been clarified that for a journey of 200 kms. or above in an unreserved segment, the journey ticket shall remain valid upto 24.00 hrs. of the day, for which the journey ticket has been issued, except in a situation, where the ticket, is issued in advance when the validity of the ticket shall be upto 24.00 hrs. of the day of travel. A perusal of the ticket, filed by the applicants in the claim application, shows that this ticket is not issued in advance, otherwise two separate dates, one as the date of issue and the other as the date of travel would have been printed on it. Thus, the ticket, issued for a distance of 246 kms. and not issued in advance, will have a validity upto 24.00 hrs. of the day, for which the ticket was issued i.e. of 31.10.2016 in the instant case. Hence, it is clear that since the journey by the deceased was commenced at 11.00 hrs. on 01.11.2016, the said journey ticket, which was purchased at 22.54 hrs. of 31.10.2016, cannot be taken as a valid journey ticket in view of the Railway Board's aforesaid clarificatory letter dated 09.10.2018.

2. So far as the issue of incident being covered as an untoward incident is concerned, there is no eyewitness to the incident. As per the records of the case file, there is no memo issued by any railway authority, nor there is any message issued by the Police Control Room about the alleged incident or any DD entry recorded by police showing the injured having been taken to the hospital from the site. In the claim application, it has only been mentioned that some members of the public had got the deceased admitted in Ambay Hospital, Ghaziabad, under MLR, from where the deceased was referred to G.T.B. Hospital, Delhi. A perusal of the death summary, prepared by the G.T.B. Hospital, Delhi, shows that, the patient (deceased) had arrived in this hospital in an unconscious condition and he died in the hospital. There is no direct or indirect cogent evidence to establish that the death of the deceased was as a result of any fall from the train.

3. I, therefore, hold that neither the deceased was a bona fide passenger of the train in question, nor his death was the



result of any alleged fall from the train in question as contended by the applicants. Issue No.1 is decided in the negative against the applicant.

7. At the outset, the aforesaid reasons given by the learned RCT are absolutely unconscionable and perverse, and thus, liable to be set-aside. First thing first, as per the DRM report, a conclusion was drawn as per the police report filed by PS: GTB Enclave, Delhi that the deceased had fallen from a moving train and died due to the injuries sustained in the accident. However, in the same breath, it was opined that the deceased was probably negligent as he was travelling near the gate/entry/exit of the moving train.

8. In the face of the aforesaid DRM report, the finding recorded by the learned RCT that the deceased did not die as a result of an ‘untoward incident’ within the meaning of Section 123(c) (2) ¹ of the Railways Act, 1989 [‘Act’] cannot be sustained in law.

9. Further, there is no evidence that the deceased was in any manner rash or negligent or that the death occurred due to suicide or attempt to commit suicide. There is no evidence that the injuries were self- inflicted or that the deceased was intoxicated or insane and therefore, the respondent cannot disclaim its liability under Section 124A of the Act².

¹ 123 [(c) “untoward incident” means—

(2) the accidental falling of any passenger from a train carrying passengers.]

² ² [124A. **Compensation on account of untoward incidents.**—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



10. Insofar as the issue as to whether the deceased was a *bona-fide* passenger within the meaning of Section 2(29) of the Act³, it is an admitted fact that the railway ticket was issued from Shikohabad Railway Station at 22.54 hours on 31.10.2016. It is also an admitted fact that the tickets are either issued in advance for performing journey on any given day or the tickets are also issued at the counter of the concerned railway station for undertaking the railway journey, same day on time proximate to the issuance of the railway/journey ticket.

11. The finding given by the learned RCT that the ticket was valid for only 24 hours on 31.10.2016 i.e. upto 00:00 hours at the mid-night of that day, belies common sense and logic. Once a railway ticket/journey ticket is issued for performing the journey on any train, which may be that the train ticket is issued just before mid-night and the journey is performed immediately afterwards as and when the train arrives. There is no caution, warning or stipulation in the railway/journey ticket that the journey should be performed on the date indicated in the ticket upto 00:00 hours in the mid-night of the

compensation to such extent as may be prescribed and to that extent only of 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 purpose 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.]

³ 2 (29) “passenger” means a person travelling with a valid pass or ticket;



same day.

12. At this juncture, it would be apposite to reproduce the commercial circular dated 22.01.2016 relied upon by the learned RCT, which reads as under:-

“GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

(Commercial Circular No. of 2016)

No. TC-n/2002/2015/Val. Tickets New Delhi, dated
22.01.2016

The General Managers,
All zonal Railways

Sub: Validity of unreserved tickets over Non-suburban sections.

Ministry of Railways have decided to revise the validity of unreserved tickets over non-suburban section as under-

- (i) For distances upto 199 Kms, the Journey shall be started from the originating station within three hours of time of issue of tickets or upto the departure of first train for the destination whichever is later.
- (ii) For distances of 200 Kms and above, there Will be no change in the existing provisions and also the advance booking of 3 days will continue to be allowed.
- (iii) For the distances upto 199 Kms, the tickets across UTS will be issued at the originating stations only.
- (iv) As regards validity of return journey tickets, the facility for return journey tickets upto 199 Kms should be withdrawn.
- (v) In case of Excess fare tickets also, the validity of EFT for the distance upto 199 Kms will be the time of issue of such tickets or upto the departure of first train for the destination whichever is later.

2. This Issues with, the concurrence of Finance Directorate of Ministry of Railways.

3. This will be implemented w.e.f 01.03.2016.



4. CRIS may kindly make necessary changes in the software.

(Vikram Singh)
Director Passenger Marketing
Railway Board

No. TC-II/2002/2015/Val. Tickets New Delhi, dated 22.01.2016”

13. A careful perusal of the aforesaid circular would show that upto a distance of 199 kms, the journey may start from the originating station within three hours of the issuance of tickets or upto the departure of the first train for the destination, whichever is later. Similarly, for a distance of 200 kms and above, there is a provision of advance booking, but then it does not say that a ticket cannot be issued from the originating station before the departure of the train. An advance ticket may be valid for three days, but then in case of a journey performed for over 200 kms, the railway/journey ticket, if issued before the departure of the train without any conditions attached thereto, would be valid railway/journey ticket.

14. Viewed in that light, in the instant case, the distance from Shikohabad to Delhi was 246 kms. The reliance on the clarificatory letter dated 09.10.2018 by the learned RCT is clearly misplaced and irrational, since if the train ticket is valid for 24 hours, it means that it is valid for 24 hours from the time of issuance, which in this case was evidently 22:54 hours on 31.10.2016. There was no condition or stipulation to the contrary while issuing the railway/journey ticket. If the reasoning by the learned RCT is allowed to prevail, it would result in palpable injustice to the commuters who travelled at odd hours,



after purchasing a valid railway/journey ticket.

15. In view of the aforesaid reasons, this Court has no hesitation in holding that the deceased was a “*bona-fide* passenger”. In all probability he died on falling from a moving train and succumbed to the injuries. This clearly brings the case within the four corners of being an ‘untoward incident’. At the cost of the repetition, the respondent/railway cannot absolve themselves of their liability in terms of Section 124A of the Act.

16. Accordingly, the present appeal is allowed. The appellants/claimants, who are the parents of the deceased are made entitled to and be paid statutory compensation of Rs. 8,00,000/- with an interest @ 12% p.a. from the date of the death of the deceased i.e. 01.11.2016 till date.

17. The appeal is disposed of.

DHARMESH SHARMA, J.

MAY 06, 2025/*sp/sa*