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

+ **FAO 130/2022**

RAJESH DEVI & ORS.

.....Appellants

Through: Mr. Prashant Kumar Shishodia,
Adv.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Siddhartha Sinha, SPC with
Mr. Prashant Rawat, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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24.03.2025

1. The appellants being the widow, two minor children and the father of the deceased/Devendra Singh have preferred the present appeal under Section 23 of the Railway Claims Tribunal Act, 1987 [**'RCT Act'**] thereby assailing the impugned judgment dated 18.02.2020 passed by the learned Member (Judicial), Railway Claims Tribunal, Principal Bench, Delhi, whereby their claim seeking compensation on account of death of the deceased in a railway accident was dismissed.

2. Briefly stated, it was the case of the claimants that on 14.08.2016, the deceased was travelling in Train No.14113 viz. Allahabad Delhi Link Express from Aligarh Junction to Rajghat Narora after purchasing a valid journey ticket. It was claimed that the train was overcrowded and the deceased was standing near the gate/compartiment and due to experiencing a sudden jerk when the train reached Harduaganj Railway Station, he fell down from the running train and died on the spot. It was claimed that the journey ticket was lost in the accident.



3. The respondent/Railways filed a written statement and denied that the deceased was a “bonafide passenger” and claimed that the deceased was himself responsible for meeting with the unfortunate fate and relied upon the DRM Report.

4. The learned Railway Claims Tribunal [‘RCT’], based on the pleadings of the parties, framed the following issues: -

- “I. Whether the deceased was a bona fide passenger in the train in question at the time of incident?
- II. Whether there was any untoward incident as is defined under the provisions of Section 123(C) of Railways Act, 1989?
- III. Whether the Applicants are dependents of the deceased?”

5. Having heard the learned counsels for the parties and on perusal of the record, it would be expedient to reproduce the findings given by the learned RCT on issues no.1 and 2 which were decided together which go as under:-

“It has been averred by the applicants that the deceased accidentally fell down from the train at Harduwaganj Railway Station while travelling from Aligarh to Rajghat Narora. In para-7, it is mentioned that valid ticket from Aligarh to Rajghat Narora is lost in the incident. In support of bonafide status of the deceased, applicant has produced AW-2 Shri Yogendra Singh as a witness of purchasing ticket by the deceased. He has stated in his cross examination before the Bench that मेरे पास इस समय घटना वाले दिन का कोई यात्रा टिकट नहीं है। मेरे पास घटना वाले दिन का मेरे भाई के साथ गाजियाबाद से अलीगढ़ जाने का कोई सबूत या दस्तावेज नहीं है। यात्रा का टिकट मेरे भाई ने खरीदा था। मेरे भाई ने अलीगढ़ से राजघाट नरौरा का टिकट खरीदा था। मुझे नहीं पता की टिकट कितने का था। टिकट मेरे भाई ने खरीदा था वह उसने अपने पर्स में रखा था। उसके बाद मैं अपने गाँव सुनामी चला गया था क्योंकि गाँव जाने के लिए रेलगाड़ी निकल चुकी थी। मेरा गाँव सुनमाई रेलवे स्टेशन है। हरदुआगंज रेलवे स्टेशन मेरे गाँव से 4-5 किमी. दूर है। सुनामी रेलवे स्टेशन मेरे घर से आधा किमी. दूर है। मैंने अपने भाई को गाड़ी में अपने सामने बैठाया था। मेरा भाई यह जानता था कि यह गाड़ी हरदुआगंज नहीं रुकती है। मुझे अपने भाई की प्रत्यु की सूचना दिनांक 14.08.2016 को 6.30-7.0 बजे के बीच मिली थी। घटना वाले दिन मेरे भाई की ट्रेन लगभग 5.15 बजे चली थी। First of all it is pertinent to mention here that the name of AW-2 is not pleaded in



the claim application as witness of purchase of ticket by the deceased. More so, AW-2 in his affidavit stated that he was travelling alongwith deceased from Ghaziabad to Aligarh on 14.08.2016. He has not disclosed about the train by which they have travelled from Ghaziabad to Aligarh. Ticket for their alleged journey from Ghaziabad to Aligarh is also not produced which prove that they were travelling together from Ghaziabad to Aligarh. In support of presence of AW-2 at Aligarh station, applicant has failed to file any supporting evidence which prove that AW-2 is the witness of purchasing ticket by the deceased for his undertaking journey from Aligarh to Rajghat Narora. As per contents mentioned in the affidavit of AW-2, firstly the deceased had travelled from Ghaziabad to Aligarh and thereafter he had started his onward journey from Aligarh to Rajghat Narora but applicant has concealed this fact at the time of filing claim application. More so, in my opinion, if the deceased had to go to Rajghat Narora he will purchase a ticket from Ghaziabad to Rajghat Narora, directly. No cogent reason has been stated by the applicant for brake of journey by the deceased at Aligarh Railway Station. There is nothing on record about recovery of any ticket from the deceased. In absence of any cogent evidence, only producing an alleged witness of purchasing of ticket, whereas he has failed to produce any evidence in support of his presence at Aligarh Railway Station on the date of alleged incident, it cannot be presumed that the deceased was having a valid ticket for his alleged journey from Aligarh to Rajghat Narora.

So far happening of untoward incident is concerned, applicant has filed Panchanama, Postmortem Report, G.D. All the panchas have opined that the death of deceased is due to cut by the train. The panchas are also family members and co-villagers of the deceased. In the G.D. it has clearly been mentioned that during deboarding the train at Harduaganj Railway Station, both legs of one unknown person is cut by the train. The G.D. is the primary documents which depicts that the deceased was deboarding at Harduaganj Railway Station. It is an admitted fact that the deceased was aware that the train by which he was travelling, has no schedule stoppage at Harduaganj Railway Station. As per available documents and circumstantial evidence prima-facie it is estimated that the deceased had tried to deboard the train at Harduaganj Railway Station which had no schedule stoppage.

Respondent has filed statutory inquiry report alongwith certain documents. In the gist of statutory inquiry report, respondent has also concluded that the deceased died due to his own negligence while he was deboarding running train. Respondent has also recorded the statement of Shri Sanjay Kumar Maheshwari presently working as Dy. S.S./Aligarh Jn. He has stated in his



statement that on 14.08.2016 he was on duty at Harduganj Railway Station as Dy. S.S. While the Train No.14113 was passing through Harduaganj platform, one person namely Devendra Singh was alighting from running train and meanwhile he comes under the train and his both legs were cut. Dy. S.S./HGJ is an eyewitness of the incident and he has clearly stated that the deceased sustained injuries while trying to alight from running Train.

Furthermore, during statutory inquiry, respondent has also recorded the statement of Shri Dori Lal, father of the deceased and he has stated that on 14.08.2016 his son was coming from Ghaziabad to his home and he accidentally fell down at Harduaganj Railway Station. As per documents available on record the deceased was resident of Distt. Aligarh and his father clearly stated in his statement that the deceased was coming to his home from Ghaziabad. Meaning thereby the deceased was travelling from Ghaziabad to Aligarh and the occurrence taken place at Harduaganj Station which situated beyond Aligarh Railway Station. In these circumstances, whereas the applicants have concealed the actual facts and in the absence of any cogent evidence of purchasing ticket by the deceased for his undertaking journey from Aligarh to Harduaganj, it is clear that the applicants have cooked a story of travelling of deceased from Aligarh to Rajghat Narora.

During the course of arguments, Ld. Counsel for respondent argued that this is clear case of self-inflicted injury as the deceased had attempt to alight from run through train well knowing the fact that the train in question has no schedule stoppage at Harduaganj Station. He has further argued that the G.D. is the primary evidence of the incident and the contents of G.D. cannot be simply brushed aside in the absence of any cogent evidence on behalf of applicant. The Act of the deceased is a clear act of Self-inflicted injury. Hence, this case is covered under Section 124-A (b) & (c) and the respondent railway is protected to pay compensation under exception clause of Section 124-A of Railways Act. In this regard, Hon'ble High Court, Gujrat in **Pravinbhai Ishwarbhai Vaghela V /s Union of India, 2018, it has been held that, from the sequence of events, it can be seen that the act of the deceased in this case was totally imprudent, irrational, callous and unmindful of the consequences. All the facts and circumstances of this case show that the act of the applicant was with full knowledge of the eminent possibility of endangering his life or limb and therefore, it squarely comes within the term of self-inflicted injury defined in Section 124-A provision (b) of the Act. In the said incident, the deceased had tried to alight moving train which has no schedule stoppage.**



Respondent counsel also relied on Section 191 of Railway Act, 1989. As per Section 191 of Railways Act, 1989, proof of entries in records and documents: Entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession. In the present case, applicant has not filed any cogent evidence to disprove the contents recorded in the record of respondent.

In view of my findings on Issue No.01 & 02, I have no hesitation in holding that the applicant has miserably failed to prove that the deceased was a bonafide passenger and suffered an untoward incident as defined within the meaning of Section 16 (1) r/w Section 13(1-A) of Railway Claims Tribunal Act, 1987 or Section 124-A of the Railways Act, 1989. Accordingly the claim application deserves to be dismissed and is hereby dismissed.”

6. I am afraid on a careful perusal of the aforesaid reasons, the present appeal manifestly appears to be bereft of any merit. It needs to be appreciated that the proceedings before the learned RCT are summary in nature and the *Panchnama* and the DRM Report are relevant and admissible in evidence. It was clearly brought out that the train had no halt at the Harduaganj Railway Station and it is brought out that the deceased attempted to alight from a running train and in the process, lost his balance so much so that both of his legs were amputated and he succumbed to the injuries sustained in the accident.

7. The said fact was corroborated by the statement of Sh. Sanjay Kumar Maheshwari, who was working as a Deputy Station Superintendent at Aligarh Junction. It is also brought on the record that no railway ticket was found in the possession of the deceased. The testimony of AW-2 that the deceased had purchased the ticket was not



found to be truthful since he claimed that he was travelling with the deceased, he did not report the matter to the police/RPF or for that matter to the Station Master nor accompanied the injured deceased to the hospital. Learned RCT has rightly referred to the general diary which records that one passenger was trying to deboard the train at Harduaganj Railway Station and sustained injuries.

8. Lastly, it is evident that it was a case of “gross negligence” on the part of the deceased as he attempted to deboard a running train which had no stoppage at Harduaganj Railway Station, and therefore, in such a situation, the respondent/Railways is absolved from any liability to pay compensation in terms of Section 124-A(b) of the Railways Act¹.

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

DHARMESH SHARMA, J.

MARCH 24, 2025

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¹ [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 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.]