



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

% **Judgment reserved on: 16 April 2025**
Judgment pronounced on: 21 April 2025

+ **FAO 164/2016**

RAMESH SUNEJAAppellant

Through: **Mr. Ravi Sabharwal, Adv.**

versus

UNION OF INDIARespondent

Through: **Mr. Vikas Kumar Sharma, SPC.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G E M E N T

1. The appellant/claimant injured has preferred the present appeal under Section 23 of the Railway Claims Tribunal Act, 1987 [“**RCT Act**”] for setting aside the judgment/award dated 01.02.2016 passed by the Railway Claims Tribunal, Principal Bench, Delhi [“**RCT**”] whereby his claim petition bearing No. O.A.(IIu) No.111/2015 seeking compensation for the injury sustained in the railway accident was dismissed.

2. Shorn of unnecessary details, the appellant preferred an application under Section 16 of the RCT Act stating that on 21.01.2015, he was travelling from Sonapat to New Delhi Railway Station in Jhelum Express train on a valid journey ticket; and that due to huge rush in the compartment, he was standing near the gate of the compartment; and when the train reached the Sadar Bazar Railway Station, he received a sudden and heavy thrust from inside the compartment, and resultantly he slipped and fell down from the moving train and came between the train and the platform. He stated



that he became unconscious and later on found that he had been rushed to B L Kapoor Memorial Hospital by the public and his left hand was amputated from the shoulder because of the grievous crush injuries sustained in the railway accident.

3. The respondent/Railways in its written statement contested the claim for compensation filed by the appellant *inter alia* on the ground that he was not a *bona fide* passenger and the injuries were not sustained by him on account of any “untoward incident” but as a result of his own negligence. The learned RCT based on the pleadings of the parties framed the following issues:-

- “1) Whether the incident in question is an untoward incident within the meaning of Section 123 (c) of the Railways Act, 1989 and the applicant suffered the alleged fall from train as a bonafide passenger?
- 2) Whether the respondent is protected under Section 124-A of the Railways Act, 1989 and is exonerated from the liability to pay compensation?
- 3) To what amount of compensation, if any, is the applicant entitled to recover?

4. During the course of inquiry, the appellant examined himself AW1 while on the other hand, the respondent examined Sh. K P Singh, Guard of the Jhelum Express Train as RW1 besides filing the DRM Report on the record which was marked as Ex. R-1.

5. Suffice to state that although the learned RCT found that the appellant was carrying a valid journey ticket and was a *bona fide* passenger, however, based on the testimony of RW-1/Sh. K P Singh, it was held that the train had no scheduled halt or stoppage at Sadar Bazar Railway Station and the appellant in all probability attempted to alight from a moving train and in the process, fell down and sustained



injuries and therefore; the Railways were exempted by virtue of Clause (b) of the proviso to Section 124-A¹ of the Railways Act, 1989.

6. Hence, this appeal has been filed.

ANALYSIS & DECISION:

7. Having heard the learned counsel for the parties and on perusal of the record including written submission filed on behalf of the learned counsel for the respondent, this Court has no hesitation in finding that the reasons given by the learned RCT in dismissing the claim petition cannot be sustained in law.

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

“6. These two issues are inter-related and hence are being considered together for the sake of convenience. The case of the applicant is that on 21.01.15, he was travelling from Sonapat to New Delhi railway station in Jhelum Express train on a valid railway journey ticket, and that due to huge rush in the

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.



compartment, he was standing near the gate of the compartment. It is stated that when the train reached Sadar Bazar railway station, he received a sudden and heavy thrust received from inside the compartment, and he slipped and fell down from the moving train. As a result of the said fall, he sustained grievous crush injuries in his left hand through shoulder. To prove that the applicant was a bonafide passenger of the train in question at the relevant time of the incident, he has filed the original railway journey ticket on record, Ex. A-5. The validity and genuineness of the said journey ticket is not in dispute. Rather, the said journey ticket was got verified by the respondents themselves from the concerned issuing station and its validity and issuance has been found correct by the respondents and is duly admitted in the concluding portion of the DRM Report, Ex. R-1. Thus, there being no evidence in rebuttal from the side of respondents on this aspect, I have no hesitation in holding that the applicant was a bonafide passenger of the train in question at the relevant time of the incident.

7. As regards the fall of the applicant from train, the applicant has filed Ex. A-1, DD No. 7-A dt. 21.1.15, which shows fall of one person at Sadar Bazar railway station as reported by PCR at 12.52 hrs. Ex A-2 is the Return Report mentioning about the removal of the injured to the B.L. Kapoor hospital by one of his acquaintances. Ex. A-3 is DD entry No. 23-B including the statement of the injured applicant at Ex. A-4, which also refer about the statement of the injured applicant to the effect that he was working in Sadar Bazar area in a private firm Vandana Traders and that on the relevant day, he fell down from the moving train at Sadar Bazar railway station and sustained the alleged injuries. Thus, the incident of fall from the train is not in dispute But, the respondent contends that the said fall of the applicant from train is on account of his own negligence. In support of the said contention, the respondent also adduced the evidence of the Guard of the train in question, who as RW-1 has stated during his evidence before the Tribunal that there is no stoppage of the said train at Sadar Bazar railway station, and on that day, the train was passing through, but the train had to be stopped after and due to the incident in question and that the train had not stopped due to any signal etc. The RW-1 further said that he got down from the train and took the injured to New Delhi railway station in the same train. Not only the evidence of the respondent, but the evidence of the injured applicant himself before the Tribunal specifically and fairly proves that he was working in Sadar Bazar area in a private firm and was a daily passenger from Sonapat to Delhi. The applicant himself has conceded that many passengers travel by the train in question everyday and they get down at Sadar Bazar railway station when the speed of the train is slow. He also admitted that there is no stoppage of the said train at Sadar Bazar railway station and that on the days train does not slow down,



passengers do the chain pulling. He also admitted that from Sadar Bazar station his place of work is only 5 to 10 minutes walk whereas from New Delhi station it is 2- 2 and 1/2 kms. Thus there is a specific admission on the part of the applicant himself that he was working near Sadar Bazar railway station and was a daily passenger and that many passengers get down from slow moving train at Sadar Bazar railway station from Jhelum Express which does not have a stop there. This coupled with the evidence recorded by Guard of the train establish that his fall from the train was due to his own negligence when he also, along with other passengers tried to get down from the moving train which had no scheduled stoppage at that station. The entire evidence of both the parties leads to the conclusion that the fall of the applicant from the train in question is not accidental, but result of criminal negligence as an attempt was made by the applicant to get down from the train that had no scheduled stoppage to save time and quickly reach his place of work, thus putting his life and limbs in danger fully knowing the consequences of such attempt to get down from a moving train. The applicant has thus failed to convince the Tribunal that his alleged fall from the train was accidental. It is to be noted the applicant was attempting to de-board the running train at a point where the train was not supposed to halt. In fact, the train did not halt and it was in running condition when the applicant made an abortive attempt to de-board the train unauthorisedly. Such a case does not fall within the ambit of accidental fall from train. The case of a person falling from the train while de-boarding the same at a railway station having scheduled halt is clearly distinct and different from a case like the present one, where the deceased made an unsuccessful attempt to de-board a running train at an unscheduled stop and suffered the fall. The present case, therefore, cannot be construed to be a case of accidental fall from the train amounting to an untoward incident within the meaning of Section 123 (C). It is clearly a case of unauthorized act besides being one of supine negligence and rashness with full knowledge of its dangerous consequences. The injuries sustained and the amputation resulting there from is clearly self-inflicted in the circumstances of the present case. Clause (b) of the proviso to Section 124-A of the Railways Act, 1989, therefore, gets attracted duly exonerating the respondent Railways from liability to pay compensation. The principle of strict liability underlying the respondents' liability to pay compensation notwithstanding the negligence on the part of the passenger does not apply to the facts of the present case since the attempt made by him to deboard the running train at a place where there is no scheduled halt is clearly unauthorized and the injuries sustained by him are clearly self-inflicted.



8. In the case of *Gurcharan Singh & Others Vs. Union of India reported in 2014 II AD (DELHI) 495* it is held by the Hon'ble High Court of Delhi that

“.... The act of trying to get down from a moving train was done because in the opinion of the deceased, he must have thought that the train had slowed and it was safe enough to get down from such a moving train which decision unfortunately turned out to a deadly decision of criminal negligence or self-inflicted injury. In my opinion, therefore, there is no error in the impugned judgment holding that the deceased died not on account of any untoward incident but on account of his own negligence or his self-inflicted injury and consequently as per Section 123 (c) and Section 124 (A) of the Railways Act there would be no liability of the Railways. In view of the above, I do not find any merit in the appeal, and the same is therefore, dismissed...”

Under these circumstances, it is held that the injuries sustained by the applicant were not due to an accidental fall from the train amounting to an untoward incident within the meaning of Section 123 (c) read with Section 124-A of the Railways Act, 1989. These issues are answered accordingly

9. In view of the findings on above issues, the applicant is held not entitled for any compensation.”

9. In the opinion of this Court, the learned RCT has taken a hyper technical view of the matter and has overlooked the beneficial provisions of the Act. The manner and the circumstances in which the accident occurred has been explained by AW1/appellant/claimant/injured in his testimony and he deposed that he had purchased a valid ticket for travelling from Sonapat to New Delhi Railway Station and he was travelling in the general compartment standing near the gate. He deposed that as the train was passing through the Sabzi Mandi Railway Station, some commuters/passengers attempted to disembark the running train and there occurred a lot of pushing and jostling as a result of which, he lost his balance and fell out of the gate and slipped between the train the platform thereby sustaining injuries on his left



hand. He also testified that he had fallen unconscious and later on found that he was admitted in the B L Kapoor Memorial Hospital.

10. The appellant/claimant's version as to the manner in which the accident occurred has not been controverted in his cross-examination. AW-1 stated in the testimony and cross-examination that he was a daily passenger and he always used to travel from Sonapat to New Delhi Railway Station and from New Delhi Railway Station he used to go to his place of work at Sadar Bazar after taking some rickshaw or other vehicle. He also deposed that his place of work was hardly two kms. from Sadar Bazar and about 5 to 10 minutes walking distance from the Sadar Bazar Railway Station. He denied the suggestion that he attempted to get down from a moving train to deboard at Sadar Bazar Railway Station and got injured in the process.

11. Insofar as the RW1 is concerned, his testimony that the passenger had attempted to deboard a running train is not an eye witness account and it is based on certain assumptions that passengers had been attempting to deboard the train at Sadar Bazar Railway Station in a routine. Although it is categorical in his testimony that the train had no halt or stoppage at the Sadar Bazar Railway Station and was getting through but at the same time, it is nowhere in his testimony that he saw the appellant/claimant getting down from the moving train and getting injured in the process. There was no denial to the fact that the train was overcrowded and he was given a suggestion that the appellant/claimant got injured due to lot of pushing and jostling on the part of commuters who are attempting to get down from the running train at Sadar Bazar Railway Station.



12. I find merit in the submissions made by the learned counsel for the appellant that in view of the beneficial purposes of the RCT Act, it is the version of the appellant that should be accorded primacy over the version of a witness like RW1.

13. At the cost of repetition, the testimony of RW1 was based on mere assumptions that some commuters were attempting to disembark a running train at Sadar Bazar Railway Station where there was no halt, cannot be sustained in law. The plea that the appellant committed a criminal act or self-inflicted injury within the meaning of Section 124-A of the Railways Act, 1989 cannot be sustained in law. The case of **Gurcharan Singh v. Union of India**² cited by the learned RCT, is clearly distinguishable since it was in the background of peculiar facts of that case where it was proven that the injured attempted to get down from a moving train and therefore the claim was rejected. By all means, it appears to be a case of an accidental fall from a train resulting in permanent disability to the appellant/claimant injured.

14. In view of the above, the present appeal is allowed. The appellant/claimant is made entitled to a statutory compensation of ₹8 lakhs with interest at the rate of 12% per annum from the date of accident i.e. 21.01.2015 till realization. The appeal is disposed of accordingly.

DHARMESH SHARMA, J.

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² 2014 II AD (Delhi) 495