

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 894 of 2018

Jhuma Rani Pramanick

VERSUS

Union of India & Ors.

For the appellant:

Mr. S.N. Sukul, Adv.

Mr. Sagnik Chatterjee, Adv.

For the respondent Nos. 1-3/U.O.I.:

Mr. Sayan Mukherjee, Adv.

Ms. Rashmi Bothra, Adv.

Ms. Jayati Chowdhury, Adv.

Ms. Sucheta Mitra, Adv.

Last Heard on: February 23, 2026

Judgment on: May 22, 2026

Biswaroop Chowdhury, J:

The appellant before this Court was an applicant in an application under Section 16 of Railway Claims Tribunal Act 1987 read with Section 124-A of Railways Act 1989 and is aggrieved by the Judgment and Award dated 08-02-2017 passed by Hon'ble Vice-Chairman Railway Claim Tribunal Kolkata Bench in claim Application No. OA (IIU)/Kol/2011/200.

The case of the appellant before the Learned Railway Claim Tribunal may be summed up thus:

On 25-07-2010 the husband of the applicant since deceased was travelling Ex-Barhampur to Sealdah to fetch gangajal on the head of Lord Shiva from Sherafulli having a valid IInd class railway ticket. Due to over crowded pressure and sudden jerk he accidentally fell from the running train between Krishnanagar City Jn. and Badkulla station. and died on spot. Binay Halder and Somnath Halder Saw the incident Police case was registered at Krishnagar GRPS vide U/D case No-20/2010 dated 25-07-2010.

The Union of India Railway Authority filed written objection and denied allegation and contested the case. ISSUES were framed and evidence was adduced.

Learned Judge Railway Claim Tribunal upon considering the evidence and hearing the Learned Advocates by Judgment and Award dated 08-02-2011 was pleased to dismiss the claim case by observing as follows:

‘6.4. Evidence of the applicant is self serving. The applicant has not produced the alleged eye-witnesses Binay Halder and Somnath Halder and examined them.

There is no cogent evidence furnished on behalf of the applicant which establishes that her husband fell from a train and succumbed to his injuries. No doubt that Railway Claims Tribunal Act is a beneficial legislation. However

there is hardly any scope of taking deviation or departure from clear unambiguous provisions of the Act. There is absolutely no evidence to ascertain the cause of death of the applicant's husband was due to fall from a running train. Tribunal must pay an obedience to the provisions of law and cannot grant claims in disregardful of law. It is the duty of the Court awarding compensation from the Public fund, to award strictly as per compensation Rule 1990 and undue leniency needs to be avoided.

Keeping in view the discussion made above I hold that the applicant has conclusively failed to prove that her husband accidentally fell down from a running train and died thereof.

The issue is answered against the applicant and the case of the applicant does not come under the purview of Section 123 (C) (2) of the Railways Act 1989.'

The appellant being aggrieved by the Order passed by the Learned Tribunal has come up with the instant appeal.

Heard Learned Advocate for the appellant and Learned Advocate for the respondent. Perused the materials on record.

Learned Advocate for the appellant submits that the said case was filed in the Railway Claims Tribunal Claiming compensation in terms of provision of Section 124A of the Railways Act 1989 on the ground of accidental falling of a passenger named Late Amrit/Amrita Pramanick from train carrying passenger

which was an untoward incident in terms of Section 123(c)(2) of the Railways Act 1989. Learned Advocate further submits that the inquest report as prepared by the Police Authority clearly reflects the fact of falling down from the train carrying passenger herein named as Amrit Praminik S/O. Brindaban Pramanik of Village-Belpukur, Post Office-Balarampur, Police Station-Balarampur Dist-Murshidabad who was travelling with valid Rail Ticket being no-H-08083178-103178 dated 24-07-10. Learned Advocate also submits that in Final report it is clearly recorded that the deceased fell down from Down (DN) 112 Lalgola Passenger train at about 01.15 hrs and one Railway ticket seized from the possession of deceased from Berhampur Railway Station to Barrack Pur Railway Station. It is submitted by the Learned Advocate that in the final report submitted by police Authority it recorded that as per PM report no-799/10 dated 25th July 2010 the death is due to shock and haemorrhage resulting from above mentioned injuries which are ante-mortem and seems to be accidental in nature. Learned Advocate further submits that the report basically process that the accident happened due to falling from the said passenger train which was a Lalgola-Sealdah Passenger train which departed Berhampur Court Rly. Station around 10-55 at night (10-55 P.M.) and reached Krishnanagar around 1-00AM. The accident happened in between Krishnanagar and Badkulla Rly. Station, and Badkulla Station is the next station after Krishnanagar towards Sealdah side. Learned Advocate also submits that the Learned Trial Judge erred in observing that the applicant has

not furnished the Railway Ticket when the said ticket was seized by the Police Authority.

Learned Advocate submits that in the order it is stated that name appearing in the claim application, death certificate I/D. Card as Amrit Pramanik son of Brindaban Pramanik it is vehemently stated that the claimant had nothing to do in the matter, as the Police Authority at the tune of making inquest report added one word 'a' with Amrit which made it Amrita by spelling, but the man Amrit and by Police Authorities spelling as Amrita was duly identified as same and identical person by father's name and Address in all the claimant's documents and Police authorities' document.

Amrit Pramanik and Amrita Pramanik is not an issue at all since the Police Authority handed over the dead body to his father Brindaban Pramanik on proper identification. In addition to that the claimant Jhuma Rani Pramanik actually affirmed Amrit Pramanik as her husband with proper identification in both of the claim application and affidavit in chief.

Learned Advocate submits that the Learned Trial Judge erred in not concluding that there was an untoward incident as defined under Section 123(c)(2) of the Railways Act 1989, as there is no strand of conjecture or Surmise or speculation in the eye of law wherein the specific cause of the death of deceased has been recorded in the Final report as produced by the Enquiry officer of the GRPS/Krishnanagar endorsed with the duty by the officer in charge and placed before the Learned Magistrate under Section 174 of the

Code of Criminal Procedure. The said report was not challenged, and no prayer was made before the Tribunal to summon the Police Officer who conducted the enquiry for the purpose of examination.

Learned Advocate further submits that the Respondent Railway Authority with a very ill motive to suppress the fact of the said accident did not produce DRM report before the Learned Tribunal though as per clause-4 of the manner of Investigation of (Untoward Incident) Rules 2003 and amended rules 2007 DRM, Divisional Railway Manager's report ought to have been placed in the Learned Tribunal so as to bring the fact and finding of each and every untoward incident as came out from enquiry.

Learned Advocate relies upon the following Judicial Decisions.

Union of India VS Probhakarn Vijaya Kumar and ors.

Civil Appeal No-6898 of 2002. (Supreme Court of India)

Union of India VS Rina Devi.

Civil Appeal No. 4945 of 2018.

(Supreme Court of India)

Md. Rahim Ali @ Abdur Rahim VS State of Assam.

Special Leave Petition (Civil) No. [Diary No. 20674 of 2017]

Learned Advocate for the Respondent submits that the Appeal preferred by the appellant is devoid of merits. Learned Advocate further submits that the Learned Tribunal upon due appreciation of evidence came to a finding that the claimants have failed to establish that the deceased was a bona fide passenger of the train. Learned Advocate also submits that the appeal is filed on misconceived grounds.

Learned Advocate has countered the grounds of appeal as follows:

GROUND-No-1 Failure to Appreciate Gravity of the Matter With regard to Ground-I Learned Advocate submits that the Learned Tribunal duly appreciated the facts and law, including the gravity of the matter. The dismissal was based on the Appellant's failure to prove essential elements under Section 124A of the Railways Act viz. that the deceased was a bona fide passenger with a valid ticket and that the incident qualified as an 'untoward incident' Mere reliance on Police reports does not suffice without corroborative evidence from the Railways or direct proof of ticket possession.

GROUND.II Spirit of Beneficial Legislation (Section 124-A) With regard to ground no-II Learned Advocate for the respondent submits that while Section 124A is beneficial it does not mandate compensation without proof. The tribunal interpreted it correctly requiring evidence of an untoward incident and bona fide status. The Appellant failed to produce the alleged ticket (claimed to be served by GRP) or any witness to the incident rendering the claim unsubstantiated.

GROUND-III. Bona Fide Travelling with valid Ticket. With regard to Ground III Learned Advocate submits that the Appellant relies on Police reports mentioning a 'seized' ticket but no ticket was produced before the Tribunal. Mere reference in secondary documents (Inquest Report) is insufficient without the original or authenticated copy. The Tribunal noted this lacuna and without proof of purchase journey details or recovery from the deceased the case remains unproved. No eye witness or railway record corroborates the claim.

Ground No. IV. Police Inquest and Final Report on Accidental Fall. With regard to Ground-No-IV Learned Advocate submits that GRP reports (Inquest Report Exhibit A/3-Final Police Report Exhibit A/4 and Post Mortem Report-Exhibit A-5) attributing death to a fall from the train at 01.15 hrs on 25-07-2010 and ruling out foul play are not binding on the Railways or the Tribunal. No railway official witnessed or reported the incident and no DRM inquiry under the Railway (Untoward Incident) Rules 2003 (as amended in 2007) was initiated as the Railways had no knowledge of any such accident. The burden to prove the incident lies on the Appellant not the Respondent.

Ground V. GRP's Authority under Section 174 CrPC. Learned Advocate with regard to ground V. submits that while GRP is empowered under Section 174 C.r.P.C. to inquire into unnatural deaths such reports are not conclusive for compensation claims under the Railways Act. They serve a limited purpose of ascertaining cause of death for magisterial closure, not for establishing railway liability. The Tribunal rightly required independent proof which was absent.

Ground VI. Final Report Establishing Untoward Incident. Learned Advocate with regard to Ground VI submits that the Final Police Report (Exhibit A/4) concludes 'accidental case' but fails to link it definitively to the train or prove passenger status. It is hearsay without supporting evidence. The Tribunal appreciated this and dismissed the claim for want of direct proof.

Ground VII: No opportunity to produce Witness.

The Appellant's evidence stage was closed after her own affidavit and documents as per procedural rules. No application for additional witnesses was made and the Tribunal proceeded fairly. The appellant cannot now complain of procedural lapses she did not challenge timely. The Appellants relied solely on self-serving documents without seeking to summon GRP affidavits or others.

Ground No VIII- Respondents Lack of Evidence and Non-submission of DRM. Report With regard to Ground VIII Learned Advocate submits that the burden is on the claimant not Respondents to prove the case. Non-submission of DRM Report under manner of inquiry into Untoward Incidents Rules 2003 (amended 2007) does not imply suppression it is optional and not mandatory for Tribunal Proceeding. The Tribunal drew no adverse inference, as the Appellant's evidence was insufficient ab-initio.

GROUND IX and X.- Variation in Spelling of Deceased Name-Learned Advocate with regard to Ground IX and X submits that this is not a 'simple variation' but a fundamental discrepancy affecting identity Police/Post-Mortem report. (Exhibit A/5) refer to Amrita Praminik' and explicitly dead-body in the Inquest

Report. (Exhibit A/3). The Election I/D card of the deceased shows 'Amrit' No separate affidavit explained this mismatch including the apparent discrepancy.

Learned Advocate submits that the appeal is liable to be dismissed.

As the present case relates to claim of compensation on account of untoward incident under Section 124A of the Railways Act 1989 at the outset it is necessary to discuss the provisions contained in the said Section.

'Section 124A of the Railways Act 1989. Section 124A of the Railways Act 1989 provides as follows:

S. 124A. Compensation on account of untoward incident – 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 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 for 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.'

The instant case arose from the recovery of an unidentified dead-body from the Railway track. between Krishnanagar Junction and Badkulla Station. On 26.07.2010 at 06.15 hours ASI Krishnanagar received a Railway memo from message no. DY 58/2517/10 that between Krishnanagar City Junction station and Badkulla Station an untoward incident happened at KM port No-97/18 in between L/C gate no. 67/T and 66/E as reported by driver that an identified dead-body lying inside up and on line. On the basis of the Railway memo the Police Authority started UD Case No-20/10 dated 26-07-10. Started duly endorsed by O/C being GRPS. Post-Mortem examination to know the actual cause of death. During enquiry from Binay Halder and Somnath Halder dead body of the victim was identified. The Police Authority seized at Railway Ticket from the possession of the deceased. It was from BPCKS to BKPRS. On receipt of the post mortem report and from statement of witnesses it was ascertained that the death was due to shock and haemorrhage resulting from the above mentioned injuries/which are accidental in nature. The report was submitted and it was pointed that the death was due to accident and there was no foul play. In the instant case no enquiry was conducted by the Railway Authority to ascertain the cause of death. As the Railway Authority respondent herein did not grant compensation to the claimants being family members of the victim the application under section-16 was moved before Railway claim Tribunal Kolkata Bench. In the instant case claimant appellant adduced

evidence. The appellant in her examination in Chief corroborated the statements made in the claim petition. She has filed documents namely under Section 174 of the Code of Criminal Procedure Voter identity card of the victim and voter identity card of the applicant. The applicant stated in her cross examination that the name of her father in law is Brindabon Pramanik and the name of her mother in law is Sandhya Pramanik. They are alive. She further stated that her husband was a painter she also stated that on the fateful date of the incident she was not travelling with her husband, and she is not the eye witness of the incident. Thus from the evidence of the applicant Jamuna Devi the relationship with the victim is established. From the cross examination nothing could be shaken with regard to the victim travelling in the train to pour ganajal on the head of Lord Shiva. In the case of Railway Untoward incident when family members or friends of the victim do not travel with the victim there is no scope for the victim's family to examine eye witness thus police Report has to be relied. In the event Police Report inspires confidence the same should be accepted, to award compensation.

In the inquest report made by the Police Authority on the basis of statement of witnesses Police Authority came to know that the victim was sitting near the entry door of the compartment and fell down from the train and died. In the report submitted under Section 174 of the Code of Criminal Procedure before the Magistrate it is observed that as per report of Dr. Ajit Kumar Biswas death is due to shock and haemorrhage resulting from injuries which are antemortem and seem to be accidental in nature. It is further

observed that there is no foul play behind the death and it is an accidental case. A railway ticket from BPS R/S to Barakpur R/S was also seized from the possession of deceased. There is no contrary evidence submitted by Respondent Railway Authority in the instant case thus the Police Report has to be accepted.

As Railway Authority is State under Article 12 of the Constitution it is incumbent upon the Authority to collect the evidence with regard to discovery of dead body from Railway Track so that genuine compensation cases are honoured and frivolous cases are dismissed. Although Railway Authority conducts enquiry and submits report but in the instant case no enquiry was conducted.

In the case of Kharka Bahadur-Chettri VS Union of India. FMA-1134 of 2024 High Court at Calcutta it was observed as follows:-

‘Before proceeding to decide the material in issue it is to be remembered that Railway Compensation provision under Section 125A of the Railways Act 1989 is a beneficial provision thus a liberal approach is to be taken so that the object of the legislation is achieved and not frustrated. The Railway Authority which is a State under Article 12 of the Constitution if upon detail enquiry and considering Police report has reasonable grounds to believe that it is an untoward incident should pay the compensation to the victim or his family without relegating them to Courts or Tribunals for such compensation.

In the case of compensation claim before Tribunals or Courts it is also necessary to consider that in case of death of a person by railway accident in a place far from his residence it is not possible to arrange for eye witnesses, thus the applicant has to depend on the report of the Police Authority Railway Authority and his knowledge of the victim travelling in a train.

In the case of Smt. Yellomma and others VS Union of India (Supra) the Hon''ble Court observed as follows:

'22. It is not possible for the claimants to examine a person as they have witnessed that the deceased has purchased tickets and also it is not possible for the claimants to examine a person as eye witness to the incident. If any passenger accompanied his friend or relative, then it may be possible to examine that person as eye witness. But where a passenger travels alone along with other stranger passenger, then after the incident and when the claim petition is filed before the Tribunal, it is not possible for the claimant to examine any person as witness to the incident. It is not expected in this regard that the claimants to examine any person as eye witness. Expectation by the railway administration that the claimants should examine eye witness is ridicule on the part of the railway administration and it is wholly unwarranted. What the Railway Department prepares report by the Divisional Railway Manager as stated above certain duties are prescribed on the railway authorities as per Rules 6 to 13 of Rules, 2003 (stated supra).

23. Rules 6 to 13 as above stated impose bounden duty on the officials of railway authorities to perform their duties and discharge their functions when an untoward-24. NC: 2025:KHC:16279 MFA No. 6117 of 2016 incident occurs. Therefore, what the railway authorities could do and ought to perform their functions, it cannot be expected from the claimants' side. Therefore, it is not a rivers burden on the claimants to prove each and every from the claimants, which the railway authorities ought to do.

24. When the respondent-Railway has taken the contention that the claimant has not produced the railway ticket, but certain duties are cast on the Railway as per Rule 4 of Rule, 2003.'

Upon considering the facts of the case and the Police report and the fact that Union of India has not adduced any evidence this Court is of the view that the claimant has been able to prove that death of the victim is an untoward incident. Thus claimant is entitled to compensation as prayed for.

Hence this Appeal FMA-894 of 2018 stands allowed. the Judgment and Award dated 08-02-2017 passed by Learned Railway Claim Tribunal Kolkata Bench in Claim Application No. OA (IIU) KOL/2011/0200 is set aside. The appellant/applicant is entitled to compensation of Rs. 400,000/- along with interest @6% per annum from date of filing claim case till today. Such payment shall be made by making the deposit before Registrar General High Court Calcutta within 8 weeks from the date of communication of this Order.

The claimant/appellant will be entitled to withdraw the compensation upon compliance of necessary formalities.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)