IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 1608 of 2025

Tanusri Ghosh & Ors.

VERSUS

Union of India

For the appellants/claimants:	Mr. Saswata Bhattacharya, Adv. Mr. R.N. Basu, Adv. Mr. W. Moitra, Adv. Mr. Tanmoy Samanta, Adv.
For the respondent/Union of India:	Mr. Bipul Kumar Mandal, Adv. Ms. Ranjana Chatterjee, Adv.

Last Heard on: October 13, 2026

Judgment on: November 23, 2026

Biswaroop Chowdhury, J:

The appellants before this Court were applicants in a case under Section 124A of the Railways Act 1989 and are aggrieved by the Judgment and Award dated 24th June 2025 passed by Learned Railway Claims Tribunal Kolkata Bench in Railway claim application No. OA (IIu)/Kol/0015/2024.

The case of the appellants/applicants before the Learned Trial Court may be summed up thus;

On 16/08/2023 the victim went to Salboni with valid ticket to attend interview for job and at the time of returning from Salboni he reached Midnapore station by local train with valid journey ticket and from Midnapore he boarded Midnapore Howrah DN Local Train with valid journey ticket at noon to reach Howrah Station and in the course of his journey from Midnapore to Howrah he accidentally fell down from running train near Deulti rail station and got grievous injury on his persons and thereafter he was shifted to Uluberia Govt. Hospital by railway staff for treatment where attending doctors declared him dead.

The Respondent Railway Authority contested the case by filing written statement. ISSUES were framed and evidence was adduced. Learned Tribunal upon considering the evidence adduced and upon hearing the learned Advocates was pleased to dismiss the claim case by observing and directing as follows:-

6.8 'Two major irregularities have got highlighted in the course of the proceedings of the case. First Uluberia S.D. hospital unauthorizedly allowed the dead body to be taken out by GRP Uluberia when they should have called Uluberia local P.S. (under whose jurisdiction the hospital fell) to conduct the Inquest on the dead body.

It was also observed that GRP Uluberia took undue interest to take away the dead body in an unauthorized fashion from Uluberia S.D. hospital to Railway station premises to conduct an Inquest. It should have been rightly conducted by Uluberia PS under whose jurisdiction the hospital fell. In order to bring these irregularities to the notice of higher authorities, a copy of the judgment with relevant documents should be marked to DGP (Railways) and also to Principal Secretary (Health) Govt of West Bengal.

6.8 Hence both these issues are decided against the applicants.

7. Since as per the findings in ISSUE NOS. 1 and 2 above the applicants have failed to establish their case, this issue does not require any adjudication.

8. Since as per the findings in ISSUE No. 1 and 2 above the applicants have failed to establish their case, they are not entitled to get any compensation or any relief, as prayed for. This issue is thus also answered against the applicants.

Hence ORDERED that the instant claim application is dismissed an contest on its merit. NO Costs.'

The appellants/applicants being aggrieved by the Judgment and Award passed by the Learned Tribunal have come up with the instant appeal.

Heard Learned Advocate for the appellants and Learned Advocate for the respondent Railway Authority. Perused the evidence adduced and materials on record.

Learned Advocate for the appellants submits that the material entry in the official incident record shows incident at 16-08-2023 at about 14.30 hours and records the place as KM No. 53/02 in the relevant entries describing the position/circumstances of the victim and the conclusion drawn from the available facts the form expressly records:

'Fallen down from the running train'

Learned Advocate further submits that the Railway's own incident form records the occurrence as a fall from a running train at the identified kilometer between Kolaghat and Deulti. The same incident papers record that an injured male was found between the railway lines and that arrangements were made for a train to pick him up and bring him to Deulti station for assistance and onward transport to hospital.

This official contemporaneous record constitutes substantial evidence supporting the pleaded case that the death arose from an untoward incident within the meaning of Section 123(C)(2) read with Section 124-A, of the Railways Act 1989.

It is submitted by the Learned Advocate that the Police Final Report, Exhibit – A/7, narrates the incident and records that an unknown male was found injured at KM. WO. 53/02, was given first aid and was sent to Uluberia Hospital where he was declared dead. The report further states that during preparation of the Surathal/inquest papers four railway tickets were found from the pant pocket of the deceased. The post-mortem report, Exhibit A/8,

records that death was due to the effects of ante-mortem injuries. The post mortem report read with FORM-II, railway incident record and the Police papers lend material support to the Appellants case that the deceased sustained fatal injuries in the course of the railway incident.

It is submitted by the Learned Advocate that the Investigation Report under Section 174 CrPC mentions four railway journey tickets including Medinipur Howrah local journey ticket bearing No. UPG.0880 1863. It is further submitted that R.W. 1 Nimay Chandra Pandey the railway enquiry affair stated in his deposition that the railway tickets had been verified and found genuine and that the train timing matched the incident. It is also submitted that the Tribunal's suggestion that the tickets might have been inserted after the body was taken to the railway station is possibly advanced in argument and not directly established by the evidence.

Learned Advocate relies upon the following Judicial decision:-

Rajni and Another VS union of India and Another.

Reported in 2025 SCC Online SC-2182.

Learned Advocate for the respondent Railway Authority submits that in the judgment of the Learned Tribunal two irregularities is highlighted. First Uluberia S.D. hospital unauthorizedly allowed the dead body to be taken out by GRP Uluberia when they should have called Uluberia local P.S. under whose jurisdiction the hospital fell to conduct the Inquest on the dead body. It was

also observed that GRPF/Uluberia took undue interest to take away the dead body in an unauthorized way from Uluberia S.D. hospital to Railway station premises to conduct an inquest. It should have been rightfully conducted by Uluberia P.S. under whose jurisdiction the hospital fell.

Learned Advocate further submits that ASI K.K. Ray of RPF/Post/ULB and on duty staff conducted inquest over dead body and during inquiry no railway journey ticket was found from the possession of deceased person.

Learned Advocate also submits that it is clear from the enquiry report that the injured male person was not a bona-fide railway passenger and incident occurred due to his own negligence.

Before proceeding to decide on the issue it is to be remembered that in case of railway accident it is not possible always for the family of the victims to arrange for witness to the accident unless they have travelled with the victim. Thus they have to depend on the report of Police Authority and Railway Authority.

The appellant/applicant Tanusri Ghosh examined herself as witness being AW-1 in her examination in chief has specifically stated that on 16/08/2023 at down her son Kaushik Bajpai the victim herein left home to reach Salboni by train from Howrah to attend interview for job and after completion of interview he availed Howrah bound Midnapore-Howrah Local train from Mednipore to reach Howrah with valid journey ticket and in the course of his journey her son Kaushik Bajpai accidentally fell down from

running train near Deulti rail station in the afternoon on the same day and as a result he got grievous injury on his persons and thereafter he was shifted to Uliberia Government Hospital for treatment where attending doctors declared him dead.

In cross examination by the respondent Railway Authority AW-1 stated that on the date of the incident she had close contact with her son over the phone all along. Her son told her over phone that he reached Howrah then reached Santragachi and then boarded Rupasi Bangla Express. In question put by the Court she also stated that in the date of the incident her son went to Salboni Midnapur to attend an interview. Thus from the evidence of A.W.-1 it is established that on the date of incident, the victim went to Salboni to attend an interview.

Now with regard to fall from the train although A.W. 1 mother of the victim did not witness such fall but the same appears from the deposition of R.W.1. Mr. Nimay Chandra Pandey SI/RPF/Post/SHM who conducted the inquiry.

RW-1 the Inquiry Officer stated that the incident occurred at KM No-53/02. After getting information regarding the incident SM./Kolaghat informed the Train Manager of the immediate available local train to lift the injured victim from the place of occurrence and drop him to Deulti Railway station. Accordingly the victim was lifted from the spot and he was taken to Deulti Railway station. After that S.M./Deulti issued a railway memo and the victim

was taken to Uluberia Hospital where the doctor declared him dead. He further stated that he took charge regarding the inquiry of this case on 05-02-2024 and on 07-03-2024 he submitted his Inquiry Report He collected the mobile number of the victim from his family member and also collected the call details and tower location of that phone.

It was observed that the victim was talking with his family members and suddenly his phone was disconnected while he was passing through the place of occurrence. From the call details and tower location of the victim's mobile phone he was of the opinion that there was a probability of the presence of the victim at the place of occurrence. He further stated that the train timing also matched with the timing of the incident. The Railway Journey tickets were verified and he is of the opinion that the tickets were genuine and these correlate with the incident. He also stated that one Sanjay Saha stated who was travelling by Coromandol Express first saw the incident and he informed through railway helpline No. 139 that one dead body was lying by the side of the railway line. Before the Corromondol Express Midnapore Local passed through the place of occurrence. The victim went to give an interview in a company at Salboni and he inquired about the matter and the Company Authority confirmed to him that the victim went to Salboni but the interview was cancelled on that day and after that they could not contact the victim. After the investigation he came to a conclusion that the victim was genuinely travelling by train with the recovered raiway journey tickets on the fateful date of the incident.

The Report submitted by the Police Authority under Section 174 CRPC also states that it is learnt from local enquiry that the deceased person fell down from any local train during journey from Midnapore to Howrah at KM Post No. 53/02 near Deulti rail station and got serious injury and thereafter he was shifted to Uluberia Govt Hospital by railway staff for treatment where doctor Abu Raihan Aktar declared the injured person dead and then S.M. Uluberia returned the dead body to Uluberia station platform no-1 and issued one memo to hand over the dead body to Uluberia GRPS.

The case of the appellants/claimants is further strengthened from the statement of C.W.-3 Jamshed Khan, and CW-5 Gaurab Saha before the Court.

C.W.-3 in reply to question put by Court stated that he is an ambulance driver and he took the victim to the hospital in his ambulance. On 16-08-2023 at about 5.00 p.m. he was at Uluberia hospital. The station Manager/Uluberia called him to Uluberia railway station to take one injured person who was brought to Uluberia Railway station from Deulti. He then took the victim to Uluberia hospital with GRP and RPF personnel. The doctor of Uluberia hospital declared the victim brought dead. The victim was alive at Uluberia Railway station.

C-W-5 Gourab Saha in his reply to Court stated that Senapati Babu SI of Police told him to sign on the document and he accordingly signed it. He further stated that contents of the seizure list was explained. He identified his signature on the inquest report and stated that the contents of the inquest

report was explained to him and he did not see the reverse page of the inquest report.

As Railway Claim legislation is a beneficial legislation and Railway Authority is state within Article 12 of the constitution, the Enquiry Report of the Railway Authority was sufficient evidence for the said Authority to pay either ex-gratia or compensation under the statute without relegating the appellants/applicants to tribunal.

Upon perusal of the decision of the Learned Tribunal it appears that nowhere in the said decision the Tribunal discussed the Inquiry Report of the Railway Authority and the reply given by R.W. 3 to the questions put by the Tribunal. Learned Tribunal on the other hand based its decision on the irregularities of the Police Authority in conducting Post Mortem Report. In the event there is procedural irregularity in conducting post mortem is no ground to discard the post mortem report and negate the case of the appellants without examination of the doctor who conducted post mortem examination and in view of sufficient materials on record it will go to show that death of the victim is an untoward incident.

Now with regard to the findings of the Tribunal that the seizure witness was asked to sign the seizure list and they did so out of coercion and fear such findings cannot be sustained. Upon perusal of statement of CW-5 it appears that although he stated that he signed on the instruction of Senapati Babu but he also stated that Senapati Babu explained the contents of seizure list. When

the contents are explained it cannot be presumed that he acted under co-ercion.

With regard to observation of the Learned Tribunal that it cannot be ruled out the arguments made by the Learned Counsel for the respondent that GRP took the dead body in their custody and transported it to the place of their choice just for inserting journey tickets in the possession of the dead body and to prepare an inquest report as per their own concocted evidence and Final Report thereafter, such observation also cannot be sustained. When in course of investigation the Police Authority has prepared certain seizure list and submitted report the said report cannot be discarded simply treating the investigation as perfunctory and it would not be reasonable to make any castigating remark in the decision without examining the said investigating officer. The observation made by the Learned Tribunal of Police Authority taking the body to insert railway ticket cannot be sustained.

Moreover it will appear from the statement of Buchu Mondal before Inquiry Officer N.C. Pandey that as per direction of SI Sanjay Kumar Senapati he searched the dead body and found 4 nos. of Railway tickets from the pant pocket of the body. Thus in the facts and circumstances of the case there is no scope to disbelieve the seizure list of the Police Authority.

Form the report of NC Pandey SI/RPF/Uluberia Inquiry Officer the victim was travelling in local train No-38816 Dh from Midnapore to Howrah Railway

Station Railway tickets is also mentioned. However he concluded that the victim might have fell due to his own fault.

In view of the provisions of Section 124A of the Railway Act 1989 which is a beneficial legislation and based on the principle of no fault liability fall from the train due to negligence of the passenger does not take such incident outside the purview of untoward incident.'

It is to be remembered that in case of application for compensation under section 124A of the Railways Act it is not necessary to prove the fact in issue beyond reasonable doubt but on the touchstone of preponderance of probability. Claims for compensation under Section 124A of the Railways Act 1989 should not be treated as adversarial litigation and endeavour should be made by the Railway Authority and Courts to advance the object of the legislation.

In the case of Rajni and Another VS Union of India and Another. Reported in 2025 SCC Online S.C. 2182 the Hon'ble Court observed as follows:-

'13. In the light of the above, we are of the considered view that the High Court had faulted in affirming the finding of the Railways Claims Tribunal whereunder the claimants petition had been rejected for non- production of a seizure memo of the ticket and for non-examination of the investigating officer, which is and was the main thrust of argument canvassed by the learned

Counsel appearing for the Railways. This reasoning ignores the consistent judicial line that the absence of formal seizure or witness examination does not, by itself, negate bonafide travel when other material evidence substantiate the claim. Mere technical irregularities or lapses in procedure should not defeat a legitimate claim under a welfare statue, like the Railways Act, 1989. Particularly Chapter XIII which deals with liability of railway administration for death and injury to passenger due to accident. A Hyper technical approach which would frustrate the object of providing relief to victims of railway accidents should be eschewed. The insistence on a formal seizure memo would amount to importing standard of proof which normally is sought for in a criminal trial.

14. Hence, we reaffirm that proceedings under Section 124-A of the Railways Act are not criminal trials demanding proof beyond reasonable doubt, but welfare statues are governed by the principles of preponderance and probabilities. Once the foundational facts of (i) possession or issuance of a valid ticket, and (ii) occurrence of an accidental fall from a train, are established through credible material, the statutory presumption of bona fide travel must operate in favour of the claimant. The Railways, as an instrumentality of the State, cannot defeat such claims by pointing to procedural imperfections in investigation or non-examination of formal witnesses. To hold otherwise would erode the beneficial character of the legislation and convert a social-justice remedy into a forensic obstacle race.

15. It is therefore declared that where an official railway inquiry or evidentiary record verifies the issuance of a ticket corresponding to the date and route of an untoward incident, such verification shall constitute prima facie proof of bona fide travel, shifting the evidentiary burden on the Railway Administration. The absence of a seizure memo, or the inability of the police to preserve physical evidence, cannot by itself defeat a legitimate claim when the totality of circumstances supports the claimant's version. This principle shall guide all future tribunals and High Courts in construing Section 124-A, so that the statutory right to compensation remains real, accessible, and consonant with the humanitarian purpose of the enactment.'

In the facts and circumstances discussed above this Court is of the view that the appellants/applicants have been able to prove that death of the victim is an untoward incident. Thus the appellants are entitled to compensation as prayed for:-

Hence this Appeal FMA-1068/2025 stands allowed. The Judgment and Award dated 24th June 2025 passed by Learned Railway Claims Tribunal Kolkata Bench in OA(IIu)/Kol/0015/2024 is set aside. The Appellants are entitled to compensation of Rs. 8 lakh from the respondent. The respondent shall deposit before the Registrar General High Court at Calcutta Rs. 8 lakh alongwith interest @6% per annum from date of filing of claim case till today. Such deposit shall be made within 8 weeks from the date of communication of

this Order. The appellants 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.)