IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5881 of 2025

In R/FIRST APPEAL/2347/2026

With
R/FIRST APPEAL NO. 2347 of 2026

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UNION OF INDIA THROUGH GENERAL MANAGER
Versus
AMIT RAJESHBHAI JOSHIAR

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Appearance:
MR HARSHEEL D SHUKLA(6158) for the Applicant(s) No. 1
FRESH RULE THROUGH SPEED POST SERVED(42) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 09/06/2026

ORDER IN CA

Considering the averments made in the application, the same is allowed and delay caused in preferring main matter stands condoned.

ORDER IN FA

Heard learned advocates for the appellant.

1. This First Appeal u/s 23 of the Railway Claims Tribunal Act, 1987 (in short “the Act”) is directed against the judgment and order dated24.7.2025 passed by the leaned Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad in Case

No.OA (Iiu)/ADI/681/2025, whereby the the learned Railway Tribunal allowed claim of Rs.7.60 lakh plus interest from the date of incident till the amount actually realized.

2. Brief facts of the case are that on 14.02.2025 mother of the respondent namely Ushaben wanted to travel from Jamnagar to Haridwar with a valid reservation ticket bearing PNR no. 8124514992 (containing 106 adults; coach No. S/2, berth No. 9 to 14) in train No. 19565 Okha-Dehradun Uttaranchal Express. The respondent along with his wife and brothers, went to drop his mother at the platform of Jamnagar Railway station and purchased a platform ticket bearing No. B-21603362 (containing 04 persons). Thereafter, when the train arrived at platform No. 1. there was heavy rush of the passengers on the platform. There was no portal available at that time and the passenger, being a sr. citizen lady, carried two suitcases, handbags & water bag and the respondent went inside the train with the view to help his mother in boarding. After dropping his mother in the train, immediately he was getting down from the train at the platform, at that time due to a sudden jerk and jolt of the train he lost his balance and accidentally fell down from the train at platform No.1 of Jamnagar station. Due to said fall he was dragged with the train and his left hand was crushed under the wheels resulting in amputation from the shoulder joint portion. He sustained other multiple grievous injuries on spine and different parts of his body also. In these consequences, the respondent sought compensation as he met with an untoward incident.

3. Learned advocate for the appellant would submit that the respondent was not a bona fide passenger and had no legal ticket at the time of incident. He would further submit that the platform ticket which the respondent was holding does not entitle the holder to remain in any carriage of compartment in view of para 302(c) of Indian Railway Commercial Manual, Vol I, Chapter III. Thus, he prays to allow this appeal.

4. Recently, this Court has encountered identical issue in First Appeal No.2943 of 2024, wherein, in para 7 to 10, this Court has observed thus:-

> *"7. It is incontrovertible that along with the claim petition, dependents filed the affidavit saying that deceased had purchased platform ticket. As against this, it is a case of the railway that no platform ticket was found either from DRM report or inquest panchnama.*
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> *8. Recently, the Hon'ble Supreme Court of India in case of Rajni & Another vs. Union of India & Another reported in* ***2025 LiveLaw (SC) 986*** *addressed the issue and held that mere absence of ticket with the deceased does not negate the claim of being bona fide passenger. It is further held by the Hon'ble Supreme Court that proceedings under Section 124A of the Act are governed by principles of preponderance and probabilities, not the standard of proof beyond reasonable doubt as required in criminal trials. The relevant observations of Hon'ble the Supreme Court in paras:10, 11, 12 and 13 read as under:*
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> > *"10. The Appellants case solely rests on the affidavit dated 10.02.2020 filed before the Railway Claims Tribunal namely the affidavit*

of the wife of the deceased. She has stated in unequivocal terms that her husband late Shri Sanjesh Kumar on the date of the accident i.e., on 19.05.2017 was travelling from Indore to Ujjain by passenger train no. 12485 Ranthambore Express with ticket in second class. She has further deposed that the ticket has been seized by the Police Narwar, District Ujjain. She has also deposed that on previous day night that is on 18.05.2017 she was told by the deceased that he was going out with some work and asked for his Aadhar Card and ID proof and thereafter he left the house with his luggage. Before the Tribunal as well as before the High Court the appellants had placed reliance on Divisional Railway Manager (DRM) note dated 23.02.2019 (R/1) to contend that Police Station Narwar while forwarding the documents to the railway authorities had forwarded a railway ticket bearing no. L1027420 EX dated 19.05.2017 (Indore to Ujjain). The copy of the said railway ticket is at Annexure P-1 which was marked as Exhibit P-6 before the Railway Claims Tribunal. Thus, the initial burden which was cast on the claimants stood discharged. Infact, the High Court while reappreciating the evidence tendered before the Tribunal found that DRM report dated 26.02.2019 (R/1) revealed that at the time of accident, deceased was travelling in train and having fallen from train had sustained injuries and later succumbed to the same. In the teeth of said finding recorded, the High Court held that it established that the death would fall within the purview of 'untoward incident' as defined under Section 124 (A) of the Railways Act, 1989. However, while examining the issue as to whether claimants had proved deceased was a bonafide passenger, same was held in the negative on the premise that the railway ticket was not found alongwith the body of the deceased or alongwith the

articles found near the body of the deceased. However, the aforesaid DRM Report dated 23.02.2019 (R/1) has recorded a finding as under: -

"Ticket Verification: - In the documents received from Police Station Narwar in relation to the incident of 19.05.2017, the train travel ticket no. L10274210 from Indore to Ujjain has been verified by the Chief Booking Supervisor Indore on 19.05.2017 and it is stated that the said ticket was issued from Indore Station. (Document attached)."

11. This Court in the case of Doli Rani Saha vs. Union of India3, has held that the burden of proof would shift to the Railways once, the Claimant-Appellant filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the railway authorities. It has been further held: -

"15. From the recapitulation of the various judicial pronouncements leading to the present appeal, it can be seen that the primary issue is whether the deceased was travelling on the train in question. In Rina Devi [Union of India v. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198] , a two-Judge Bench of this Court considered the question of the party on which the burden of proof will lie in cases where the body of the deceased is found on railway premises. This Court held that the initial burden would be on the claimant, which could be discharged by filing an affidavit of the relevant facts. Once the claimant did so, the burden would then shift to the Railways. Significantly, it also held that the mere absence of a ticket would not negate the claim that the deceased was a bona fide passenger. The relevant extract from the ruling of the Court is reproduced below: (SCC p. 588, para 29) "29. We thus

hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly." (emphasis supplied)

16. In the present case, the appellant had duly filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the respondent, which showed that the deceased was travelling on the train and that his death was caused by a fall during the course of his travel. The burden of proof then shifted to the Railways, which has not discharged its burden. Therefore, the presumption that the deceased was a bona fide passenger on the train in question was not rebutted.

17. Further, the report of the IO indicates the details mentioned in the post-mortem report. It states that the cause of death was due to an injury sustained on the head and that all injuries were antemortem and caused by "blunt force impact". It also states that forty-eight to seventy-two hours had passed since the time of death."]

12. Though Ms. Rukhmini Bobde, learned Standing Counsel appearing for the Railways has made a fervent plea to contend that the

finding recorded by the Tribunal with regard to the suspicious circumstances of the railway tickets relied upon is sufficient to discard the claim, we are not impressed by the said submission for reasons more than one. Firstly, the initial burden which is cast on the claimants to prove that the deceased had travelled in the train has been discharged by the sworn statement made by first claimant (wife of deceased). Secondly, the High Court by relying upon the report of DRM report (R/1) has arrived at a conclusion that death of 1st claimants husband would fall within the purview of expression 'untoward incident' as defined under Section 124 (A) of the Act; Thirdly, the railway ticket which formed part of the police report stood unrebutted; Fourthly, the very same report also disclosed the Chief Booking Supervisor, Indore had verified the ticket produced alongwith the report of the police and certified that ticket had been issued from Indore Station. This would clearly satisfy the requirement of the expression 'passenger' as contemplated under Clause (ii) to Explanation to Section 124 (A) of the Act and deceased being declared as a 'passenger' travelling in the train. This view also gets fortified by the judgment of the coordinate bench in the case of Kamukayi and Others vs. Union of India and Others4, whereunder it has been held: -

"9. ..... By the explanation of the said section clarifying about "passenger", it would include 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.

10. This Court in Rina Devi [Union of India v. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198] has explained the burden of proof

when body of a passenger is found on railway premises. While analysing the said issue, this Court has considered the judgment of the Madhya Pradesh High Court in Raj Kumari v. Union of India [Raj Kumari v. Union of India, 1992 SCC OnLine MP 96] and the judgments of the Delhi High Court in Gurcharan Singh v. Union of India [Gurcharan Singh v. Union of India, 2014 SCC OnLine Del 101] , the Andhra Pradesh High Court in Jetty Naga Lakshmi Parvathi v. Union of India [Jetty Naga Lakshmi Parvathi v. Union of India, 2011 SCC OnLine AP 828] and also considered the judgment of this Court in Kamrunnissa v. Union of India [Kamrunnissa v. Union of India, (2019) 12 SCC 391 : (2018) 5 SCC (Civ) 613] and in para 29 concluded as thus : (Rina Devi case [Union of India v. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198] , SCC p. 588) "29. We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.""(emphasis supplied)

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."

9. This Court, in First Appeal No.3793 of 2025 referred to the judgment of the Hon'ble Supreme Court reported in Union of India Vs. Prabhakaran Vijaya Kumar, reported in ***(2008) 9 SCC 527*** *to understand the object of the Railway Act. Paras:5 and 6 thereof read as under:*

"5. The Hon'ble Apex Court in case of Union of India Vs. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527, held that object of the Act is for the benefit of the person for whom the Act was made and should be given liberal and not the strict interpretation. Section 123(c) of the Act on its plain reading appears to be a beneficial piece of legislation. Section 123(c) in fact widened the benefit of untoward accident and even if, the railway is not involved in untoward accident, the railway has been held liable to pay compensation if a passenger travelling in the railway suffers

injury or death.

6. The benefit is found to be in inclusive definition. In view of section 123(c)(iii), even if a person is in waiting hall, clock room or reservation or booking office or on any platform or any other place within the precincts of a railway station and received injury or suffered death, the railway is liable to pay compensation."

10. In view of above, without dwelling further into merits of the case, since claimants have filed the affidavit claiming that the deceased had platform ticket, it is burden upon the railway to disprove this aspect, otherwise in view of Section 124A, 123(c)(2) and 124 the Railway is liable to pay the compensation. As said by the Hon'ble Supreme Court, in aforesaid authority, hyper-technical approach which frustrates the object of providing relief to victim of railway should be ignored and eschewed."

5. In view of above, since the issue raised in this appeal is no more *res integra*, I am not inclined to exercise discretion to issue notice and the appeal stands dismissed at admission stage. Rule discharged. Consequently, CA does not survive and stands disposed of accordingly.

6. R & P be called for from the concerned Court.

(J. C. DOSHI,J)

SHEKHAR P. BARVE

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SHEKHAR PRAFULBHAI BARVE(HC00200), Principal Pvt. Secretary, at High Court of Gujarat on 09/06/2026 16:33:02