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

% Reserved on : 24.09.2026
Pronounced on : 29.10.2026
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 # CNR No.DLHC010266212023

+ FAO 167/2023

RAJ KUMAR & ORS. .....Appellants
Through: Mr. Rajan Sood, Ms. Ashima Sood and Ms. Megha Sood, Advocates

versus

UNION OF INDIA .....Respondent
Through: Mr. Piyush Bansal, SPC with Mr. Rishab Dubey and Ms. Ruchita Srivastava, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellants seek to assail the judgment dated 29.11.2022 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/GZB/217/2018.

2. Briefly stated, the case set up by the appellants before the Tribunal was that *Kushal Kumar* (hereinafter referred to as the "deceased"), son of appellant Nos. 1 and 2 and brother of appellant

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No. 3, was travelling from *Dadri* to *Aligarh* on 11.11.2017 by a passenger train after purchasing a valid journey ticket. It was stated that, during the course of the said journey, he accidentally fell from the train near *Khurja* Railway Station and fatal injuries.

3. The claim was contested by the respondent/Railways withthe principal objection being that no journey ticket had been recovered from the body of the deceased and, therefore, his status as a *bona fide* passenger had not been established. It was further contended that the body was found lying on the UP main line, whereas the deceased was stated to have been travelling in the opposite direction. Reliance was also placed upon the nature of the injuries and the post-mortem report to contend that the deceased had been run over by an unidentified train.

4. By way of the impugned judgment, the Tribunal accepted the respondent's contentions and dismissed the claim. The Tribunal placed considerable reliance on the fact that the body was noticed on the morning of 12.11.2017, although the deceased was stated to have commenced his journey on the previous evening. The Tribunal further disbelieved the testimony of AW-2/*Rahul*, who claimed to have accompanied the deceased to *Dadri* Railway Station, observing that his presence had not been disclosed in the original claim application and he had not informed either the family or the police that the deceased had purchased a ticket in his presence.

5. Before this Court, Mr. *Sood*, learned counsel for the appellants assails the impugned judgmentcontending that the absence of the journey ticket cannot, in view of the settled law, defeat the claim,

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particularly when the appellants averred that the deceased had purchased a ticket and that his belongings were lost in the incident. Learned counsel further submits that the Tribunal has treated the location of the body and the nature of the injuries as conclusive proof of a run-over incident and without any independent evidence establishing the precise manner in which the deceased came to be on the railway track, the same cannot be sustained.

6. *Per contra*, learned counsel for the respondent submits that the appellants have failed to establish either that the deceased was a *bona fide* passenger or that his death occurred in an "untoward incident" within the meaning of the Railways Act, 1989 (hereinafter referredto as the "Act"). It is urged that the testimony of *Rahul* was rightly discarded as an afterthought and that the medical and railway records lend support to the possibility that the deceased was run over by an unidentified train.

7. Having heard learned counsels for the parties and going through the material placed on record, the questions which arise for consideration are whether the deceased was a *bona fide* passenger at the time of the incident and whether his death is attributable to an "untoward incident" within the meaning of the Act.

8. At the outset, it is necessary to take note that the mere non-recovery of a journey ticket does not, by itself, conclude the question of whether the deceased was a *bona fide* passenger. In "*Union of India v. Rina Devi*"[1], the Supreme Court explained that the initial burden upon the claimant is to establish the relevant facts and circumstances

[1](2019) 3 SCC 572

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indicating *bona fide* travel. Once such foundational facts are placed on record, the burden shifts to the Railways to rebut the claim on the basis of the material available. The question is required to be examined on the attending circumstances and on the standard of preponderance of probabilities, and not by treating the absence of a ticket as an automatic disqualification.

The aforesaid principle has to be applied to the facts of the present case. The appellants' case, as set out in the claim application, is that the journey ticket was lost in the incident. AW-1/*Raj Kumar*, the father of the deceased, reiterated this version in his testimony. The absence of the ticket from the articles recovered from the body, therefore, cannot be elevated into conclusive proof that the deceased had not undertaken the journey.The testimony of AW-2/*Rahul* also requires consideration in its proper perspective. He stated he had accompanied the deceased to *Dadri* Railway Station and during cross-examination, he stated that he had not actually seen the deceased purchasing the ticket and that he had not informed the appellants or the police about the alleged purchase. The question whether the deceased was a *bona fide* passenger cannot be answered exclusively by accepting or rejecting one part of his deposition. The claim must be considered on the totality of the evidence, including the consistent stand of the father of the deceased and the contemporaneous records relating to the recovery of the body.

9. Pertinently, the principle governing the assessment of *bona fide* passenger status has also been reiterated in "*Lata v. Union of*

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India"[2] and "*Sukhabhai Nanjibhai Makwana & Anr. v. Union of India*"[3]. The Tribunal's approach, insofar as it treats the absence of the ticket and the doubts surrounding AW-2 as sufficient to non-suit the appellants without assessing the complete circumstances, cannot be upheld and is liable to be set aside.

10. The next question is whether the death of the deceased falls within the expression "untoward incident" as defined under Section 123(c) of the Act. Section 123(c), inter alia, includes within the expression the "accidental falling of any passenger from a train carrying passengers". Section 124-A provides for compensation where a passenger dies or suffers injury as a result of an "untoward incident", irrespective of whether there has been any wrongful act, neglect or default on the part of the Railway Administration. The liability is thus founded on the principle of no-fault liability, subject to the exceptions specifically enumerated in the proviso to Section 124-A.

11. The material placed before the Tribunal records that, on 12.11.2017, the Loco Pilot of train UP-GZB informed the Deputy Station Superintendent, *Khurja*, about the presence of a dead body at KM 1368/17-19 on the UP main line. The information was transmitted to the GRP, *Khurja*, and the relevant entry was made in the General Diary. The ensuing *panchnama* records the body lying on the railway line and notes the injuries sustained by the deceased.These records establish that the deceased was found dead on the railway track and had sustained fatal injuries consistent with a forceful impact. They do

[2] 2026 SCC OnLine SC 1350
[3] 2026 INSC 1056

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notrecord any eyewitness account of the deceased being run over while crossing the track or otherwise being present there for a purpose unconnected with a train journey. The conclusion that the deceased must have been run over by an unidentified train is, therefore, an inference drawn from the location of the body and the nature of the injuries. Such an inference cannot be treated as conclusive merely because the precise train involved or the mechanics of the accident could not be established.

12. The Tribunal has also relied upon the fact that the deceased was allegedly travelling in the down direction, whereas the body was found on the UP main line. In the absence of evidence demonstrating the precise sequence of events, the location at which the body was ultimately found cannot conclusively determine the manner in which the deceased sustained the fatal injuries. Equally, the post-mortem report records the time since death as approximately half a day. The Tribunal inferred from this estimate that the death might have occurred in the morning of 12.11.2017 and not during the previous evening, as claimed by the appellants. However, an estimate of the time since death, without any cogent medical opinion, cannot be sufficient to establish the exact time or manner of the occurrence.

13. The Tribunal has further considered it improbable that a body would remain unnoticed on a busy railway line throughout the night. This reasoning, too, rests upon an assumption as to when the deceased died and when the body came to rest at the place of recovery. The first recorded information about the body was received in the morning from

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a Loco Pilot. In "*Surendra Prasad Verma & Anr. v. Union of India*"[4] this Court cautioned against drawing conclusive inferences from the delayed discovery or location of a body in the absence of cogent supporting evidence.

14. This Court in "*Dharmvir v. Union of India*"[5], while examining a claim arising from a railway accident, observed that the precise manner in which such an accident occurred may not always be capable of direct proof. The Court is required to consider the evidence and surrounding circumstances, rather than insist upon an eyewitness account of the fall. Likewise, in "*Reshma & Ors. v. Union of India*"[6], this Court considered the statutory scheme governing railway accident claims and reiterated that the claim must be tested against the evidence on record and the principles applicable to no-fault liability.

15. The Act is a beneficial piece of legislation and its provisions are required to be interpreted in a manner that advances the object of providing compensation to victims of railway accidents and their dependants. The principle of no-fault liability under Section 124-A of the Act does not require a claimant to establish the precise mechanics of an accident where the material on recordestablishes the occurrence on a preponderance of probabilities.

16. In view of the above, the impugned judgment is set aside and the matter is remanded back to the Tribunal, which is requested to assess the amount of compensation payable to the appellant in accordance with law and direct the authorities concerned to disburse

[4](2014) SCC OnLine Del 2917
[5]FAO 28/2016, decided on 17.04.2018
[6]FAO 224/2019, decided on 28.11.2023

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the same within two months from the receipt of a copy of this order. For this purpose, the matter be listed before the Tribunal at the first instance on 24.02.2027.

17. The appeal is allowed and disposed of in the above terms.

18. A copy of this judgment be communicated to the learned Tribunal.

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 29, 2026
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