



2026:DHC:4992



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

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Date of Decision: 29.05.2026

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FAO 222/2023, CM APPL. 44827/2023

BABURAM

.....Appellant

Through: Ms. Amrita Singh, Advocate (through
VC)

versus

UNION OF INDIA

.....Respondent

Through: None

CORAM:**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI****JUDGMENT (ORAL)**

The matter is taken up today as 28.05.2026 was declared a holiday on account of 'Id-ul-Zuha (Bakrid)'.

CM APPL. 44827/2023 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of accordingly.

FAO 222/2023

1. Notice qua the appeal was issued vide Order dated 31.08.2023 and the respondent stands duly served.
2. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 12.04.2022, passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(U)/DLI



(LKO)/590/2021.

3. The claim application came to be filed stating that on 21.08.2016, the deceased *Vimlesh @ Ramvali* (hereinafter referred to as the “deceased”) had purchased a valid second-class railway ticket for travelling from *Shamsabad* to *Delhi* and had boarded *Farrukhabad* Express (Train No.15042). It was alleged that during the course of the journey, the deceased accidentally fell from the train near *Shamsabad* Railway Station and succumbed to the injuries sustained in the incident. In support of the claim application, reliance was placed upon the oral testimonies of AW-1 *Baburam*, father of the deceased, and AW-2 *Lajjaram*, brother of the deceased.

4. The respondent contested the claim by contending that no journey ticket was recovered from the person of the deceased and that the material collected during the DRM inquiry indicated that the deceased had suffered injuries on account of his own negligence and was not a *bona fide* passenger.

5. Upon consideration of the evidence led by the parties, the Tribunal dismissed the claim application holding, *inter alia*, that since no journey ticket was recovered, therefore, the deceased had not been established to be a *bona fide* passenger and also failed to prove that the occurrence constituted an untoward incident within the meaning of the Railways Act, 1989 (hereinafter referred to as the “Act”).

6. Learned counsel appearing on behalf of the appellants submits that the Tribunal has erred in discarding the testimony of AW-2 and in placing undue reliance upon the DRM inquiry report. It is contended that once evidence regarding purchase of the ticket and boarding of the train had been adduced, the initial burden stood discharged and the burden shifted upon the



Railways in terms of the law laid down by the Supreme Court in Union of India v. Rina Devi¹.

7. Learned counsel for the respondent, on the other hand, supports the judgment of the Tribunal and submits that no ticket was recovered from the person of the deceased and the circumstances reflected in the DRM inquiry report clearly indicate that the deceased was not a *bona fide* passenger.

8. This Court has heard learned counsel for the parties and examined the record.

9. A perusal of the record would show that the Tribunal has returned a finding against the claimant principally on the ground that the name of AW-2 did not find mention in the claim application. This Court finds itself unable to agree with the aforesaid approach.

10. In the considered opinion of this Court, the aforesaid finding of the Tribunal cannot be sustained. The witness in question was none other than the brother of the deceased, who categorically deposed that he had accompanied the deceased to the railway station on the date of the incident and had witnessed the deceased purchasing a valid journey ticket and thereafter boarding the train. Merely because the name of the witness was not mentioned in the claim application could not have been a valid ground to discard his testimony altogether.

11. The deposition of AW-2, *Lajja Ram*, remained substantially unshaken and constituted direct evidence regarding the purchase of the journey ticket and the boarding of the train by the deceased. In terms of the decision of the Supreme Court in Rina Devi (supra) the claimant had discharged the initial burden cast upon him. The onus thereafter shifted upon the respondent to

¹(2019) 3 SCC 572



establish that the deceased was not a *bona fide* passenger or that the case fell within any of the exceptions contemplated under Section 124-A of the Act. The respondent failed to discharge the said burden.

12. The conclusion recorded in the DRM report that the incident occurred on account of self-negligence of the deceased is equally fallacious. The concept of self-negligence as a defence in claims arising out of untoward incidents stands considerably diluted in view of the law laid down in *Rina Devi* (supra). Further, the mere circumstance that the head of the deceased was found severed from the body could not, ipso facto, lead to the conclusion that the incident had not occurred in the manner alleged by the claimant. Significantly, there is no eyewitness account supporting the version sought to be projected by the respondent.

13. This Court also finds merit in the contention of the appellant that the Tribunal placed undue reliance upon the DRM report. Admittedly, the report came to be prepared much after the occurrence and beyond the prescribed period, i.e. an year after the incident had taken place. Such a belated inquiry, conducted long after the occurrence and even after institution of the claim proceedings, lacks contemporaneous basis and cannot be accorded due evidentiary value, as such the delay is fatal to the facts of the case because what essentially needs to be gathered is what exactly happened on the date of the incident. (Ref: *Vikrant vs. Union of India*²)

14. The cumulative effect of the aforesaid circumstances leaves little room for doubt that the Tribunal misdirected itself in appreciating the evidence. The testimony of AW-2 was discarded on wholly untenable grounds, whereas the DRM inquiry report was accorded a degree of

²2025:DHC:5335



evidentiary value not warranted in law.

15. Consequently, the findings recorded by the Tribunal on the issues relating to bona fide passenger and untoward incident cannot be sustained and are liable to be set aside. The deceased is accordingly held to be a *bona fide* passenger travelling by the train in question. The occurrence resulting in his death is held to be an untoward incident within the meaning of Section 123(c) read with Section 124-A of the Act.

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 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 06.07.2026.

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)**

MAY 29, 2026/rd