



2026:AHC-LKO:58096

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

FIRST APPEAL FROM ORDER No. - 18 of 2018

Lali

.....Appellant(s)

Versus

Union Of India Through General Manager North
Central Railway

.....Respondent(s)

Counsel for Appellant(s)	: Manish Kumar Srivastava
Counsel for Respondent(s)	: Nishant Shukla, Neerav Chitravanshi, Shiv P. Shukla

Court No. - 19

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Sri Manish Kumar Srivastava, learned counsel for the appellant and Sri Nishant Shukla, learned counsel for the Union of India / respondent, are present.

2. By means of the present Appeal, filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellant / claimant has assailed the judgment and order dated 28.09.2017 passed by Railway Claims Tribunal, Lucknow Bench, Lucknow (hereinafter referred to as 'Claims Tribunal') in Case No. OA/II/U/342/12 (Smt. Lali versus Union of India), whereby the Original Application filed by the appellant claiming compensation under Section 123(c)(2) read with Section 124A of the Railways Act, 1989, came to be rejected.

3. The facts that culled out from the pleadings are that the deceased / Shiv Narayan Singh to travel from Etawah to Delhi boarded the 'Lal-Qila Express' at Etawah Railway Station on 21.11.2011. It is the case of the appellant that the deceased / Shiv Narayan Singh purchased a second class journey ticket at Etawah Railway Station and during the course of the said journey the deceased accidentally fell down from the moving train near Sarai Bhupat Railway Station, thereby sustained such grievous injuries that caused his death, thereafter *panchnama* was prepared by the Police Station Jaswant Nagar on the Memo furnished by the Station Master, Sarai Bhupat Railway Station, and thereafter, on 22.11.2011, *post-mortem* examination of the

deceased was carried out at the District Hospital, Etawah.

4. The appellant is the widow of late Shiv Narayan Singh / deceased. She lodged her claim by instituting an Original Application under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act, 1989, before the Learned Claims Tribunal *inter-alia* claiming a sum of Rs. 8,00,000/- (Rupees Eight Lacs only) together with interest, as compensation.

5. The Learned Tribunal framed the following issues for determination:

- "1. क्या मृतक प्रश्नगत रेलगाड़ी का सद्भावी यात्री था ?
2. क्या मृतक की मृत्यु से सम्बन्धित घटना रेलवे अधिनियम की धारा-123 (सी) (2) सहपठित धारा 124-ए के अन्तर्गत परिभाषित अनपेक्षित घटना की परिधि में आती है ?
3. मृतक के आश्रित कौन हैं ?
4. याचिनी किस उपशम को प्राप्त करने के अधिकारी है ?"

6. The appellant / claimant adduced evidence by way of affidavits of the witnesses. She herself was examined as AW-1 and the brother of the deceased namely Sri Ganga Singh as AW-2. The said witnesses were duly cross-examined. In evidence, the appellant / claimant adduced copies of the Station Master's Memo, *panchnama*, *post-mortem* report and voter Identity Card as documentary evidence. On the other hand, the respondent filed D.R.M Report as the documentary evidence in support of its case.

7. The Learned Claims Tribunal, decided the issues in the following manner:

" वाद बिन्दु संख्या-01 एवं 02

निम्न बिन्दुओं के आधार पर इन दोनों वाद-बिन्दुओं के सम्बन्ध में सम्मिलित निर्णय किया जा रहा है।

याचिका के पैरा-7 के अनुसार इटावा से दिल्ली रेलवे स्टेशन का टिकट प्राप्त नहीं है तथा जामातलाशी के समय टिकट प्राप्त नहीं हुआ है।

पंचनामा के अनुसार मृतक का शव तीन टुकड़ों में अप लाइन के इधर-उधर पड़ा हुआ है जोकि सामान्यतः गिरने से सम्भव नहीं है।

पंचनामा तथा शव के अन्त परीक्षण के अनुसार मृतक का शव तीन भागों में कटा हुआ है, मृतक का सर बुरी तरह कुचला हुआ है तथा मस्तिष्क का भाग गायब है, दायाँ और बायाँ दोनों पैर कुचला हुआ है तथा इन चोटों के आधार पर इस बात की प्रबल सम्भावना है कि मृतक की मृत्यु ट्रेन से कटने के कारण हुई है।

पंचनामों में प्रथम सूचना के अनुसार पंचनामों के प्रथम पृष्ठ पर स्पष्ट लिखा है कि मृतक की मृत्यु ट्रेन से कटकर आई चोटों से होना पाया गया है।

उत्तरदाता की ओर से प्रस्तुत वैधानिक विवेचना आख्या में वरिष्ठ सुरक्षा आयुक्त ने स्पष्ट लिखा है कि मृतक का शव तीन टुकड़ों में अप लाइन के इधर-उधर पड़ा है।

अतः उपरोक्त साक्ष्य के आधार पर इस बात की प्रबल सम्भावना है कि मृतक की मृत्यु ट्रेन से कटकर हुई और यह किसी भी प्रकार से रेलवे अधिनियम, 1989 की धारा-123 (सी) (2) तथा 124 ए में वर्णित अनपेक्षित घटना की परिधि में नहीं आती है।

यह दोनों वाद-बिन्दु तदनुसार नकारात्मक रूप से याचिनी के विरुद्ध विनिश्चित किया जाता है।

वाद बिन्दु संख्या-03 एवं 04

वाद-बिन्दु संख्या-01 एवं 02 की विवेचना के प्रकाश में हमारी राय में इन वाद-बिन्दुओं पर विचार करने की कोई आवश्यकता नहीं रह जाती है तथा याचिनी की याचिका खारिज किये जाने योग्य है।

आदेश

याचिनी लाली की याचिका खारिज की जाती है। उभय पक्षकार अपना-अपना वाद-व्यय वहन करेंगे।"

8. The learned Claims Tribunal decided the above mentioned case vide judgment and order dated 28.09.2017 thereby rejected the claim of the present appellant

9. Aggrieved by the aforesaid order, the appellant preferred the instant Appeal, assailing the judgment and order dated 28.09.2017 passed by the learned Railway Claims Tribunal, Lucknow Bench, Lucknow in Case No. OA/II/U/342/12 (Smt. Lali versus Union of India).

10. Contention of by the learned counsel appearing on behalf of the appellant / claimant is that the findings recorded by the learned Claims Tribunal are contrary to the evidence available on record as well as the settled principles governing claims arising out of 'untoward incidents'. His submission is that the learned Tribunal has erred in law, by deciding only Issue nos. 1 and 2 that too on wrong premise and thereby in declining to adjudicate the Issue nos. 3 and 4.

11. It is further submitted on behalf of the appellant that the respondent has miserably failed to appreciate the *bona fide* travel of the deceased although no material is available on record to establish that no railway ticket had been issued from Etawah Railway Station for the journey in question nor were the relevant ticket sale records or ticket collection records were produced by the respondent before the learned Tribunal.

12. Learned counsel appearing for the Appellant has further submitted that the learned Claims Tribunal has failed to properly appreciate the evidence adduced by the appellant. He also asserted that the appellant / claimant (AW-1) specifically deposed before the learned Claims Tribunal that the deceased purchased a valid railway ticket in the presence of AW-2 and had boarded 'Lal Qila Express' on 21.11.2011 for travelling from Etawah to Delhi and that he accidentally fell down from the running train near Sarai Bhupat Railway Station, resulting in his unfortunate death. It is urged by the learned counsel that the appellant also deposed on oath that the journey ticket could not be recovered as it might have been lost on account of the accident in question. Further, the testimony of AW-1 stood duly corroborated by the deposition of the AW-2 namely Ganga Singh, whose evidence remained unimpeached during cross-examination as no material contradiction could be elicited by the respondent.

13. It is also asserted by the learned counsel for the appellant that mere non-recovery of the journey ticket during *jamatalashi*, by itself, cannot be made

the sole basis for rejecting the claim if the other evidence on record establishes that the deceased was a *bonafide* passenger, therefore, the finding recorded by the learned Tribunal on the issue of *bona fide* travel solely on account of the non-recovery of the railway ticket is contrary to the settled proposition of law.

14. It is urged by the appellants' learned counsel that the conclusion drawn by learned Claims Tribunal is highly erroneous that the incident was one of 'run over' because the body of the deceased was found cut into three pieces. It is further urged that the said finding recorded by the learned Claims Tribunal is not supported by any scientific evidence and is based merely on conjectures. It is contended that where a passenger accidentally falls from a moving train, the force generated by the movement of the train sometime pulls the body towards the railway track, resulting into the body to come under the wheels of the train and chopped into pieces, thus, merely, cutting the body into pieces cannot by itself exclude the possibility of an accidental fall.

15. It is argued by the learned counsel for the appellant that the learned Claims Tribunal did not appreciated the statements made by the *panch* witness namely Dashrath Singh, who had identified the body during the inquest proceedings and had informed the police that the deceased had accidentally fallen from the train and thereafter sustained fatal injuries after being cut by the train. He contended that the said statement, viewed together with the post-mortem report recording the cause of death as shock and hemorrhage resulting from *ante-mortem* injuries; fortifies the appellant's case that the death of her husband occurred on account of accidental fall from the train.

16. *Per Contra*, Learned counsel appearing on behalf of the respondent / Railway Administration has opposed the appeal and submitted that the learned Railway Claims Tribunal has rightly dismissed the claim petition after due appreciation of the oral as well as documentary evidence available on record and no interference is warranted by this Court.

17. It is submitted that the appellant has utterly failed to establish the foundational requirement that the deceased was a *bona fide* passenger travelling by the train in question. The initial burden to prove such fact squarely rested upon the claimant, which has not been discharged in the present case. It is contended that neither any journey ticket nor any part thereof was recovered either from the person of the deceased or from the place of occurrence, as is evident from the Inquest Report as well as the statutory inquiry report prepared by the Divisional Railway Manager as

contemplated under the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003. In the absence of the best available evidence, the appellant has failed to substantiate the plea that the deceased was travelling with a valid authority to travel.

18. Learned counsel for the respondent has next submitted that the incident in question does not fall within the ambit of an 'untoward incident' as defined under Section 123(c)(2) of the Railways Act, 1989 so as to attract the liability contemplated under Section 124-A of the Act. It is contended that the documentary evidence brought on record, particularly the Inquest Report, *Panchnama*, Post-Mortem Report and the earliest official communication sent by the Station Master, unequivocally establish that the deceased had been run over by a train while being on the railway track and not as a consequence of accidentally falling from a passenger train.

19. Elaborating the aforesaid submission, learned counsel submits that the injuries noticed during the inquest and *post-mortem* examination paints a gruesome picture that is wholly inconsistent with a mere accidental fall from a train. The official records disclose that the body of the deceased was found cut into three pieces, the head had been extensively crushed and the part of the brain was missing. It is, therefore, submitted that the learned Tribunal has rightly concluded that the occurrence was a case of 'run over' and not an accidental fall from a train carrying passengers as nature of injuries sustained by the deceased, as reflected in the medical and documentary evidence, is wholly incompatible with an accidental fall from a moving train and it clearly indicates that the deceased was run over by a train while on the railway track. To support his argument he relied upon a judgment passed by Hon'ble Supreme Court in the case of **Kamrunnissa versus Union of India** reported in (2019) 12 SCC 391.

20. Learned counsel appearing on behalf of the respondent further submitted that the earliest information recorded by the Station Master, Sarai Bhupat, immediately after the occurrence, also mentions that the deceased was cut down by a train, which corroborates the police records and the findings recorded in the statutory inquiry. It is submitted that an incident of a person being run over while on the railway track does not fall within the definition of an 'untoward incident' under Section 123(c)(2) of the Act and, therefore, no liability can be fastened upon the Railway Administration. That apart, in the present case, non-recovery of the journey ticket is coupled with medical and documentary evidence establishing that the deceased was run over and not a victim of an accidental fall from a passenger train. Thus, the appeal deserves to be dismissed.

21. Heard learned counsel for the parties and perused the material available

on record.

22. The questions that fall for consideration before this Court, in the present case is that whether the claim for compensation can be turned down treating the deceased to be 'not a *bona fide* passenger' of the train in question merely because no train ticket was found from the deceased or from the place of occurrence and whether the death in question fall within the class of an 'untoward incident' under Section 123(c)(2) read with Section 124-A of the Railways Act, 1989.

23. Insofar as the first question as referred herein above, this Court finds that the same has been elucidated by the Hon'ble Supreme Court in the case **Union of India versus Rina Devi** reported in (2019) 3 Supreme Court Cases 572 wherein the Hon'ble Court has been pleased to consider the aspect of burden of proof upon a body found on railway premises without journey ticket. For ready reference, the relevant paragraph is quoted herein below:

"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."

24. Upon applicability of the judgment passed by the Hon'ble Supreme Court in the case of **Rina Devi** (*supra*) in the present case, it is apparent that the initial burden has been discharged by the appellant upon production not only of her own affidavit but also by examining A.W.-2 / Sri Ganga Singh, who has categorically deposed that the deceased had purchased a second class journey ticket at Etawah Railway Station for journey from Etawah to Delhi and had boarded the 'Lal-Qila Express' on 21.11.2011. In the considered opinion of this Court, the initial burden as such has been discharged by the appellant, and the same could not be refuted by the Railways as no documentary or oral evidence has been produced by it. The respondent neither produced the relevant ticket sale record of Etawah Railway Station nor any other material to establish that no journey ticket had been issued to the deceased or that he was not traveling in the train in question. In view of the aforesaid judgment of Hon'ble the Supreme Court, as applicable to the facts and circumstances of the present case, it is held that the deceased / Shiv Narayan Singh was a

bona fide passenger in the train in question.

25. To delve into the second question involved in the present case, it would be apposite to first advert to the relevant provisions of Chapter XIII of the Railways Act, 1989, which deals with the liability of the Railway Administration for the death of, and injury to, passengers arising out of accidents. In particular, Section 123(c) of the Act of 1989 defines the expression 'untoward incident', while Section 124A of the same provides for the payment of compensation on account of such incidents.

26. Section 123(c) of the Railways Act, 1989 defines 'untoward incident' to include the accidental falling of any passenger from a train carrying passengers. The relevant provision is extracted here in below:

"123 (c) untoward incident means-

(1) (i) xxxxxxxx

(ii) xxxxxxxx

(iii) xxxxxxxx

(2) the accidental falling of any passenger from a train carrying passengers."

27. Section 124A provides that when an untoward incident occurs, 'then whether or not there has been any wrongful act, neglect or default on the part of the railway administration' such as would entitle the dependent of the passenger who has died to maintain an action, the railway administration shall be liable to pay compensation, subject only to the exceptions enumerated in the proviso thereto. A bare perusal of Section 124A reveals the beneficial and welfare legislative intention dealing with situation(s) of strict liability or no fault liability in case of railway accidents and reflects that if a case comes within the purview of Section 124A it is wholly irrelevant as to who was at fault. For convenience the the said Section 124A is quoted herein below:

Section 124A of the Act provides as follows:

"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 such as would entitle a passenger who has been injured or the dependent of a passenger who has been killed to maintain an action and recover damages in respect thereof, 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 purposes 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."

28. It is relevant to note here that in exercise of power under Section 129 of The Railways Act, 1989 Act, the Central Government framed rules known as Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. The said Rules provided for a Schedule prescribing the amount of compensation payable in respect of death and injuries. However, the said Rules have been amended w.e.f. 01.01.2017 by Notification dated 22.12.2016, substituting the Schedule by higher amount of compensation. The said Rules read as under:

"3. Amount of compensation

Amount of compensation. -(1) The amount of compensation payable in respect of death for injuries, shall be as specified in the Schedule.

(2) The amount of compensation payable for an injury not specified in Part II or Part III of the Schedule but which, in the opinion of the Claims Tribunal, is such as to deprive a person of all capacity to do any work, shall be [rupees eight lakhs] *Substituted by G.S.R. 1165(E), dated 22-12-2016, for "rupees four lakhs" (w.e.f. 1-1-2017).*

(3) The amount of compensation payable in respect of any injury (other than an injury specified in the Schedule or referred to in sub-rule (2) resulting in pain and suffering), shall be such as Claims Tribunal may after taking into consideration medical evidence, besides other circumstances of the case, determine to be reasonable:

Provided that if more than one injury is caused by the same accident, compensation shall be payable in respect of each such injury:

Provided further that the total compensation in respect of all such injuries shall not exceed [rupees one lakh sixty thousand]. *Substituted by G.S.R. 1165(E), dated 22-12-2016, for "rupees eighty thousand" (w.e.f. 1-1-2017).*

(4) Where compensation has been paid for any injury which is less than the amount which would have been payable as compensation if the injured person had died and the person subsequently dies as a result of the injury, a further compensation equal to the difference between the amount payable for death and the already paid shall become payable.

(5) Compensation for loss, destruction or deterioration of goods or animals shall be paid to such extent as the Claims Tribunal may, in all the circumstances of the case, determine to be reasonable."

29. With regard to establishment of the alleged accident, the same also stands corroborated by the documentary evidence brought on record by the appellant, such as, the Station Master's memo, the *panchnama* and the *post-mortem* report. However, the case of the appellant/ Claimant has been turned down by the Learned Tribunal on the ground that the body of the deceased was found in three pieces, therefore, the death is presumed to be a case not covered under Section 123(c)(2) and Section 124-A of the Railways Act, 1989. In the considered opinion of this Court, the said finding is based merely on presumption and is not supported by any independent oral or expert evidence. The respondent has failed to adduce any evidence to establish that the deceased was not traveling in the train or that the incident did not constitute an 'untoward incident' within the meaning of Section 123(c)(2) read with Section 124-A of the Railways Act, 1989.

30. The Hon'ble the Supreme Court in the case of **Solanki Chimanbhai Ukabhai versus State of Gujarat** reported in (1983) 2 Supreme Court Cases 174 has been pleased to hold as follows:

"13. Ordinarily, the value of medical evidence is only corroborative. It proves that the injuries could have been caused in the manner alleged and nothing more. The use which the defence can make of the medical evidence is to prove that the injuries could not possibly have been caused in the manner alleged and thereby discredit the eye witnesses. Unless, however the medical evidence in its turn goes so far that it completely rules out all possibilities whatsoever of injuries taking place in the manner alleged by eye witnesses, the testimony of the eye witnesses cannot be thrown out on the ground of alleged inconsistency between it and the medical evidence."

31. Co-ordinate Bench of the High Court of Delhi in the case of **Sh. Prempal Singh and Another versus Union of India**, reported in **2018 SCC OnLine Del 9571** has held as under:

"7. The reasoning in the impugned order that because the deceased was cut into halves: one part found inside the railway tracks and the other outside, the death could not have been caused due to accidental falling from a moving train, is flawed. The impossibility of a passenger being so crushed after a fall from a moving train has not been conclusively established in law, so as to obviate all such claims for compensation. It is possible that the deceased while standing near the overcrowded passenger compartment door, slipped down while holding on to the door-railing, and frantically tried to recover and re-board the train - with his legs flailing violently, and in the valiant and violent melee his legs or his body could have unfortunately come under the wheels of the train leading to his being consumed in the fatal accident. As long as such possibility exists, the claim cannot be ousted or denied on technical assumptions. There is not a divine camera which could replay the actual manner of the fatality, but all factors lead to the inexorable conclusion that a bonafide passenger died in an untoward train accident. There is also no reason why the deceased would be walking the railway tracks in an odd place en-route his destination - his home. It is not that he lived near the site of the accident or that he had any regular business anywhere near the place of the accident. Thus the inference that he died while crossing the tracks, is unwarranted and untenable."

(emphasis supplied by this Court)

32. Similar view has been expressed by Co-ordinate bench of this Court in the case of **Smt. Manju Yadav versus Union of India** reported in **2021 SCC OnLine All 664**.

33. At this stage, it would not be out of place to observe that in certain cases where a passenger accidentally loses balance due to sudden jolting, overcrowding or abrupt movement / braking of a running train and falls therefrom, the possibility of the passenger coming into contact with the wheels or other moving parts of the train, cannot be ruled out. In such a situation, a human body may sustain grievous injuries, including severance or fragmentation, depending upon the manner and circumstances of the fall. Therefore, the mere fact that the body of the deceased was found in multiple pieces cannot, by itself, lead to a conclusive inference that the case was one of the circumstances specified in the proviso to Section 124A of the Railways Act, 1989. For attracting the exceptions contained in the proviso to Section 124-A of the Railways Act, 1989, the Railways is required to establish the same by leading cogent and substantial evidence.

34. Taking into consideration the law as discussed herein above and the

surrounding facts and circumstances of the present case, more particularly that while disbelieving the appellant's version, the oral evidence adduced on behalf of the appellant has not been appreciated by the learned Claims Tribunal in its correct perspective as the witness (AW-1) deposed that the deceased had purchased a second class journey ticket at Etawah Railway Station for travelling from Etawah to Delhi and had boarded the 'Lal Qila Express'. The said version was duly corroborated by AW-2 / Sri Ganga Singh, who also testified to the purchase of the journey ticket and boarding of the train by the deceased. It has also come in evidence that the journey ticket could not be recovered as the same was probably lost during the incident. Despite cross-examination, no material contradiction could be elicited from the testimony of AW-2. In view of the specific evidence led by the appellant, there was no reason for the Learned Claims Tribunal to reject the claim merely on the basis of the non-recovery of the journey ticket and the condition in which the body of the deceased was found, particularly in the absence of any independent evidence led by the respondent to rebut the appellant's case.

35. The inquest report reveals that one Sri Dashrath Singh, a relative of the deceased, identified the dead body and informed the police that the deceased had fallen from a running train. The *post-mortem* report records the cause of death as 'shock and hemorrhage due to *ante-mortem* injuries', which supports the appellant's case. The D.R.M. report filed by the respondent in evidence is based only upon the Station Master's Memo prepared on the information said to have been furnished by the keyman. The report itself proceeds on the basis that the deceased sustained fatal injuries due to an accidental fall from a train and then drew an adverse inference solely on account of the non-recovery of the journey ticket. Thus, the inference drawn by the D.R.M. in its report is unsustainable in the absence of any other cogent material to establish that the deceased was not a *bonafide* passenger.

36. The judgment passed in the case of **Kamrunissa** (*supra*) which has been relied upon by learned counsel for the respondent is not applicable in the facts and circumstances of the present case, at least for one of the reason that in the case of **Kamrunissa** (*supra*), there was no evidence that the deceased purchased the ticket. In that situation the Hon'ble court inferred that it was not a case of 'untoward incident' but a case of 'run over'. However, in the present case the witness AW-2 deposed that he is witness of the fact that the deceased purchased a railway ticket to board the train from Railway Station Etawah. There is nothing on record to show that this fact / evidence has been refuted / discredited by the respondents- Railways. It is trite in law that 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-respondent 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.

37. In the aforesaid circumstances, the evidence led by the appellant required consideration in its entirety along with the attending circumstances instead of rejecting the claim solely on the basis of non-recovery of the ticket and the condition in which the body was found. The findings returned by the Learned Claims Tribunal on issue nos. 1 and 2, are perverse and unsustainable in the eyes of law for the reasons aforesaid, Therefore, the said finding are set- aside, and issue nos. 1 and 2 are answered in favour of the appellant and against the respondent.

38. In respect of the third Issue regarding Dependency, this Court notes that the Claim petition was preferred by the widow of the deceased, asserting her status as his legal dependent. The Claimant/Appellant filed a comprehensive affidavit in evidence reaffirming this status, which stood uncontroverted before the Tribunal. The Respondent-Railways neither led any independent evidence to dispute their relationship nor could discredit the testimony during cross-examination. In view of the beneficial object of the statute and the lack of any contrary material on record, the issue of dependency is decided in favour of the Appellants, and they are held to be the *bona fide* dependents of the deceased within the meaning of Section 123(b) of the Railways Act, 1989.

39. In respect of fourth Issue regarding Quantum of Compensation, the untoward incident occurred on 21.11.2011, at which time the structured compensation prescribed for death under the Schedule to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 was Rs. 4,00,000/-. However, during the pendency of these proceedings, the Central Government amended the Schedule with effect from 01.01.2017 through the statutory amendment, enhancing the basic structured compensation for death to Rs. 8,00,000/-.

40. The legal position governing the grant of compensation when an accident occurs prior to the 2017 amendment but the final adjudication takes place thereafter is no longer *res integra*. The Hon'ble Supreme Court in *Rina Devi (supra)* subsequently clarified and followed in **Union of India versus Radha Yadav** reported in **(2019) 3 SCC 410**, The relevant paragraph of the **Radha Yadav (supra)** reads as under:

"11. The issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in *Rina Devi* is very clear. What this Court has laid down

is that the amount of compensation payable on the date of accident with reasonable rate of interest shall first be calculated. If the amount so calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. Therefore, if the liability had arisen before the amendment was brought in, the basic figure would be as per the Schedule as was in existence before the amendment and on such basic figure reasonable rate of interest would be calculated. If there be any difference between the amount so calculated and the amount prescribed in the Schedule as on the date of the award, the higher of two figures would be the measure of compensation. For instance, in case of a death in an accident which occurred before amendment, the basic figure would be Rs 4,00,000. If, after applying reasonable rate of interest, the final figure were to be less than Rs 8,00,000, which was brought in by way of amendment, the claimant would be entitled to Rs 8,00,000. If, however, the amount of original compensation with rate of interest were to exceed the sum of Rs 8,00,000 the compensation would be in terms of figure in excess of Rs 8,00,000. The idea is to afford the benefit of the amendment, to the extent possible. Thus, according to us, the matter is crystal clear. The issue does not need any further clarification or elaboration."

41. It is not disputed that the incident took place on 21.11.2011 and the impugned order has been rendered on 28.09.2017. Applying the aforesaid to the present case where, the Claim petition was instituted in the year 2012 as OA/II/U/342/12. If a reasonable rate of interest at 6% *per annum* is applied to the sum of Rs.4,00,000/- from the date of accident till the date of award, the total sum falls below the enhanced statutory limit. Consequently, in line with the mandate in **Radha Yadav** (*supra*), the Appellants are entitled to the higher, revised compensation amount of Rs.8,00,000/- (Rupees Eight Lakhs only) in lump sum.

42. Accordingly, the present Appeal is **allowed**. The impugned judgment and order dated 28.09.2017 passed by the Railway Claims Tribunal, Lucknow Bench in Original Application No. OA/II/U/342/12 is hereby set-aside. The Original Claim Application consequently stands allowed in the following operative terms:

(i) The Respondent/Railways is directed to pay a lump-sum compensation amount of Rs.8,00,000/- (Rupees Eight Lakhs only) to the Appellant within a period of eight weeks from today.

(ii) In case, if, the Respondent fails to deposit/pay the said amount within the stipulated period of eight weeks, the awarded sum shall carry interest at the rate of 9% *per annum* thereafter till the actual date of payment, in the light of the principle as laid down by the Hon'ble Apex Court in the case of **Rina Devi** (*supra*)

43. The lower court records be remitted back to the Railway Claims Tribunal, Lucknow Bench.

44. No order as to costs.

45. Before parting, this Court deems it appropriate to place on record its sincere appreciation for Mr. Rajat Srivastava, Research Associate attached with me, for his diligent and assiduous efforts in researching the relevant case laws on the controversy involved in the case.

August 18, 2026
Arun

(Syed Qamar Hasan Rizvi,J.)