



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

% Judgment reserved on: 28.04.2025
Judgment delivered on: 07.07.2025

+ FAO 246/2024
RAHNUMA & ORS.Appellant

versus

UNION OF INDIARespondent

Memo of Appearance

For the Petitioner: Mr. Rajan Sood, Ms. Ashima Sood and Ms. Megha Sood,
Advocates

For the Respondent: Mr. Avnish Singh, SPC with Mr. Kapil Dev Yadav, GP.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. Appellants take exception to the judgment dated 29.04.2024 passed by learned Railway Claims Tribunal, Delhi whereby their claim petition has been dismissed. As per learned Tribunal, the deceased was not passenger of the train with which he had collided.
2. Let me narrate the facts, germane to the present appeal.
3. The unfortunate passenger in question is Mr. Vasim @ Waseem.
4. There is no dispute with the respect to the fact that on 28.06.2022, he boarded Amrapali Express Train (Train No. 15708) from New Delhi to go to Siwan Junction. There is also no dispute with respect to the fact that he was travelling as a *bonafide* passenger as he was holding a valid ticket issued on 28.06.2022 at 15:39 hours.



5. As per the averments made in the claim petition, the abovesaid train reached Khurja Junction and stopped there. According to appellants, since there was no adequate facility of water in the train compartment, Vasim @ Waseem got down from the train to take water. Thereafter, he boarded the same train again i.e. Amrapali Express Train but due to pull and push of the other passengers, he, accidentally, fell down from the moving train and sustained injuries. He was, initially, referred to Khurja Hospital from where he was taken to Aligarh Hospital where he was, eventually, declared “brought dead”.
6. The ticket was also recovered from his possession.
7. It was in the abovesaid back-drop of the facts that his legal heirs filed claim petition asserting that Vasim @ Waseem had met “*untoward incident*” and since he was a *bonafide* passenger, they were entitled to compensation.
8. The claim was resisted by the respondent and, though, they did not dispute that Vasim @ Waseem was travelling in the abovesaid Amrapali Express Train, according to them, when the train had reached Khurja Junction, one another train i.e. Train No. 02564 was also passing through Khurja Junction and despite that fact, the said train was blowing horn while passing through the abovesaid station, Vasim @ Waseem suddenly came on the main line and collided with the abovesaid train. The driver of Train No. 02564 applied the brakes immediately and informed the Station Master of Khurja Station about the abovesaid incident.
9. According to the written statement filed by the respondent, the statement of one co-passenger Mr. Naseem was also recorded by the



Investigating Officer, who also confirmed that the deceased had been hit by such other train i.e. Train No.02564.

10. According to respondent, therefore, it was apparent from the investigation carried out and also on the basis of the statements of the Loco-Pilot of Train No. 02564 and co-passenger Mr. Naseem that the accident had taken place at Khurja Station when the deceased was attempting to cross the railway line and was hit by another train. It was, thus, claimed that there was no responsibility of the Railway Administration in the abovesaid incident and no compensation was payable as the incident took, solely, on account of negligence and carelessness of the deceased.

11. Learned Railway Tribunal formulated following issues for adjudication:-

- "1) Whether the deceased was a bona fide passenger in the train in question at the time of incident?*
- 2) Whether there was any untoward incident as is defined under the provisions of Section 123(c) of Railways Act, 1989?*
- 3) Whether the applicant(s) is/are dependent(s) of the deceased?*
- 4) Whether the applicant(s) is/are entitled for any compensation and interest as prayed for in the application.*
- 5) Relief if any?"*

12. In order to prove their claim, Ms. Rehnuma (widow of Vasim @ Waseem), Mr. Naseem (co-passenger/friend of deceased) entered into witness box. Respondent examined Loco-Pilot of Train No. 02564 in order to demonstrate that the accident had been caused by another train.

13. Learned Tribunal after analyzing the evidence led by the parties came to conclusion that the deceased was not passenger of the train with which he had collided. It gave finding to the effect that the deceased was



bonafide passenger of Train No. 15708 (Amrapali Express) but the abovesaid train, in which he was travelling, had already stopped at the Khurja Station and the deceased got down from the abovesaid train and met with accident, when hit by another train. It observed that deceased himself was responsible as after alighting down from a stationary train, he had gone to fetch water and while returning back, he met with the accident and was hit by the Train No. 02564.

14. It also observed that in case, the deceased was to fetch water, he should have de-boarded from the side of platform and there was no justifiable reason for him to have de-boarded from the other side where the railway line was situated. It also observed that it was callous imprudent and act of criminal negligence on the part of the deceased who was crossing railway line at Khurja Junction Railway Station, where there was heavy traffic of trains. It, thus, came to the conclusion that it was not a case where the deceased had fallen down from any train.

15. Such findings are under challenge.

16. The foremost argument coming from the side of appellants is to the effect that the learned Tribunal has not appreciated the evidence in the desired manner. It is, though, admitted that the deceased had de-boarded from Amrapali Express Train to fetch water but at the same time, their case is also to the effect that he re-boarded the same train i.e. Amrapali Express, *albeit*, from the wrong side of the compartment. However, according to them, he was able to board the train and the train also started moving and it was only on account of rush inside the compartment and on account of push and pull, that he fell down from Amrapali Express train and received injuries.



17. It is, thus, argued that present case is clearly a case of *untoward incident* and since the deceased was a *bonafide passenger* who had purchased a valid ticket and was travelling by the same train at the relevant time, the learned Tribunal, on erroneous interpretation of evidence, has rejected the claim.

18. It is submitted that recovery of valid ticket is not in dispute and the testimony of the co-passenger and of Loco- Pilot of another train is rather in favour of the claimants which fact has not been appreciated by the learned Tribunal.

19. From the side of respondent, it has been contended that there is no reason to come to any other conclusion and, therefore, appeal is liable to be dismissed.

20. The digital copy of the record of the learned Tribunal has been received and perused.

21. The testimony of Ms. Rehnuma may not be of any real significance and relevancy as she is, admittedly, not an eye-witness. However, in her cross-examination, she admitted that she knew Mr. Naseem, who was friend of her husband.

22. The testimony of AW-2 Mr. Naseem is of utmost importance as admittedly, he was also travelling in the same train and was with the deceased. Though, appellants, in their claim petition, did not whisper about the same and respondent was relying upon his version, he was examined by claimants.

23. In his affidavit of examination-in-chief, he deposed as under:-

“1. That the deponent says that this unfortunate accident occurred on 28.06.2022.



2. That Sh. Vasim@ Waseem (since deceased) was my friends.
3. That on 28.06.2022, I along with my friend Waseem @ Vasim was travelling from Old Delhi to Siwan Railway in train No. 15708 (Amarpali Express Train) for some business purpose and was having valid ticket for travelling.
4. That there was no adequate facility of water in the train compartment and when this train reached at Khurja Junction train stopped there and my friend Sh. Vasim @ Waseem (since deceased) get down from the train to take water bottle and he boarded the train and was stood off side of the train compartment and he accidentally fell down from the train and received serious / grievous injuries all over his body and from the spot of accident he was removed to Khurja Hospital, where the MLC was prepared and where he declared brought dead by the doctors.
5. That I have never given statement to any police officials, one police officials came to me and took my signature on some blank papers and my friend was not crossing the railway line, he rather fell down from the train.
6. That the deponent says that this untoward incident occurred due to the "accident falling" of the deceased from the train, while travelling in the train."

24. Thus, the testimony of this witness is quite categoric and specific.
25. He deposed in his said affidavit that his friend Vasim @Waseem, again, boarded Amrapali Express train at Khurja Junction and he, accidentally, fell down from Amrapali Express Train and received injuries.
26. He, nowhere, claimed in his such affidavit that deceased was hit by some other train.
27. In his cross-examination, he deposed that he and Vasim @ Waseem were going from Delhi to Siwan and brought separate tickets. Their train reached at 6:00/6:15 P.M. at Khurja Station and, though, the police had obtained his signatures, he did not know as to what was recorded by them. He also admitted that it was correct that the deceased was feeling thirsty and got down at Khurja Station to fetch water. He deposed that he



remained inside the train when the deceased had gone to fetch water. In his further cross-examination, he also deposed that when Vasim @ Waseem came back with water, the train started. *He also admitted a specific question put by railways and answered that it was correct that Vasim @ Waseem had fallen down while attempting to board the train after fetching water.*

28. I need not remind myself about the stand taken by the respondent.

29. According to respondent, the deceased was hit by another train.

30. That being so, if he had already been hit by another train, there was no possibility of his attempting to board Amrapali Express train or to have re-boarded the same. However, despite such specific stance of respondent, the suggestion given to the eye witness is totally diverse and not in synchronization with their stand. For the reason best known to the respondent, they never put their essential case to him and it was never suggested to him that the deceased was hit by some other train and that he got injured before he could re-board Amrapali Express.

31. The omission to put the abovesaid specific suggestion and, then, to put a contradictory suggestion to the effect that the passenger had fallen in the process of re-boarding Amrapali Express is clearly fatal to the case of respondent. Such suggestion rather gives strong impetus to the case of appellants who also contend that incident had taken after the deceased had been able to re-board Amrapali Express.

32. The testimony of Loco-Pilot of Train No. 02564 has also not been appreciated in the desired manner.

33. Importantly, his testimony does not serve the requisite purpose, either.



34. RW-1 Mr. Ram Chandra was the Loco-Pilot of Train No. 02564.

35. In his examination-in-chief, he deposed that their signal was through at Khurja Station and he was crossing the station, while blowing horn, continuously. However, one person came between the main railway line and platform and was hit by his train. After such collision, he applied emergency brakes and, thereafter he informed about the incident through walkie-talkie and also recorded about the incident in log book.

36. In his cross-examination, he revealed that there were four platforms at Khurja Junction and his train (Train No. 02564) was passing from platform No.2 side.

37. In his further cross-examination, he claimed that person who had collided was not hit from the front side of the engine but had fallen on the side.

38. He also admitted in his cross-examination that he did not see anyone crossing the railway line.

39. When he was confronted with his previous statement as recorded in DRM, he admitted that in such statement also, it was nowhere mentioned that such person was crossing the railway line.

40. It is, thus, difficult to read his examination-in-chief and cross-examination, harmoniously.

41. In his examination-in-chief, he deposed that he saw a person crossing the line as such person, all of a sudden, came in front of his train and collided with the train. So much before the alleged collision, he applied the emergency brakes but by the time the train could come to a halt, the collision had taken place. However, in cross-examination he has taken a



complete somersault, as according to him, he did not see anyone crossing the railway line.

42. It is, thus, surprising as to why he had to apply emergency brakes, if he did not see anyone crossing the railway line.

43. Moreover, according to him, it was not head-on collision and rather the person had fallen on the side which rather supports the version of the appellants which is to the effect that when after fetching water, the deceased has re-boarded Amrapali Express, he accidentally fell down from Amrapali Express.

44. Moreover, even the inquest papers record that the deceased had received injuries on account of fall from train. These documents were prepared immediately at the spot after the incident and cannot be disregarded. The injuries suffered by deceased are also consistent with the ‘theory of fall’ and do not suggest it to be case where the deceased was hit by another train.

45. Quite clearly, the abovesaid aspects have not been properly evaluated and appreciated by the learned Tribunal.

46. In *Union of India Vs. Rina Devi: (2019) 3 SCC 572*, Hon’ble Supreme Court, after taking note of the various judicial precedents, came to the conclusion that any injury in the course of boarding or deboarding the train would fall under “untoward incident” entitling any victim to compensation and would not fall under the proviso to Section 124-A of Railways Act, merely on the plea of negligence of the victim as a contributing factor. Para-25 of said judgment reads as under: -

“25. We are unable to uphold the above view as the concept of “self-inflicted injury” would require intention to inflict such injury and not



mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on “no fault theory”. We may in this connection refer to the judgment of this Court in United India Insurance Co. Ltd. v. Sunil Kumar [United India Insurance Co. Ltd. v. Sunil Kumar, (2019) 12 SCC 398 : 2017 SCC OnLine SC 1443 : (2017) 13 Scale 652] laying down that plea of negligence of the victim cannot be allowed in claim based on “no fault theory” under Section 163-A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an “untoward incident” entitling a victim to the compensation and will not fall under the proviso to Section 124-A merely on the plea of negligence of the victim as a contributing factor.”

47. The standard of proof, while evaluating evidence in such type of claims, is that of *preponderance of probabilities*.

48. Railways Act, 1989 is indeed a beneficial and welfare statute and, therefore, appreciation of evidence should be in consonance with the objective sought to be achieved by the Act and for the benefit of the person for whom the Act has been created. Resultantly, such evaluation of evidence should be liberal and not rigid and hyper-technical and benefit, if any, has to be given to claimants.

49. In *Rina Devi (supra)*, Hon’ble Supreme Court relied upon *Union of India v. Prabhakaran Vijaya Kumar and Others: 2008 SCC OnLine SC 779* and the following observations of said case are relevant in context of present matter also. These read as under:-

“10. We are of the opinion that it will not legally make any difference whether the deceased was actually inside the train when she fell down or whether she was only trying to get into the train when she fell down. In our opinion in either case it amounts to an “accidental falling of a passenger from a train carrying passengers”. Hence, it is an “untoward incident” as defined in Section 123(c) of the Railways Act.



11. No doubt, it is possible that two interpretations can be given to the expression “accidental falling of a passenger from a train carrying passengers”, the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, in our opinion the latter of the abovementioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred vide *Kunal Singh v. Union of India* [(2003) 4 SCC 524 : 2003 SCC (L&S) 482] (SCC para 9), *B.D. Shetty v. Ceat Ltd.* [(2002) 1 SCC 193 : 2002 SCC (L&S) 131] (SCC para 12) and *Transport Corpn. of India v. ESI Corpn.* [(2000) 1 SCC 332 : 2000 SCC (L&S) 121]

12. It is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred. In other words, beneficial or welfare statutes should be given a liberal and not literal or strict interpretation vide *Alembic Chemical Works Co. Ltd. v. Workmen* [AIR 1961 SC 647] (AIR para 7), *Jeewanlal Ltd. v. Appellate Authority* [(1984) 4 SCC 356 : 1984 SCC (L&S) 753 : AIR 1984 SC 1842] (AIR para 11), *Lalappa Lingappa v. Laxmi Vishnu Textile Mills Ltd.* [(1981) 2 SCC 238 : 1981 SCC (L&S) 316 : AIR 1981 SC 852] (AIR para 13), *S.M. Nilajkar v. Telecom District Manager* [(2003) 4 SCC 27 : 2003 SCC (L&S) 380] (SCC para 12).

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14. In our opinion, if we adopt a restrictive meaning to the expression “accidental falling of a passenger from a train carrying passengers” in Section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford travelling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression “accidental falling of a passenger from a train carrying passengers” includes



accidents when a bona fide passenger i.e. a passenger travelling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal interpretation should be given to the expression.”

50. The picture which emerges out is quite clear.
51. The untoward incident happened when the deceased had re-boarded Amrapali Express, in which he was already travelling. Of course, he seems to have reboarded from the wrong side but it really does not matter much as fact remains that he was able to board again. Respondent, in view of evidence appearing on record, has failed to show that deceased was hit by another train. Their own suggestion to the most material witness also depicts the hollowness in their stand.
52. As an upshot of my aforesaid discussion, the present appeal is allowed and the impugned order is set aside.
53. As a necessary corollary, matter is sent back to the learned Railway Claims Tribunal for awarding compensation for death, as prevalent at the relevant time as per the prescribed Schedule attached with *Railway Accidents and Untoward Incidents (Compensation) Rules 1990* to the rightful claimants within eight weeks from receipt of this order. We leave it to the learned Tribunal to decide the rate of interest and its period and if the same is also found payable, it be also released within said period of eight weeks.
54. Parties are directed to appear before the learned Tribunal on 04.08.2025.
55. Appeal stands allowed in the abovesaid terms.



56. Copy of this order be communicated to the learned Tribunal for information and due compliance.

(MANOJ JAIN)
JUDGE

07 JULY, 2025/sw