



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on : 13.04.2026
Pronounced on : 27.04.2026
Uploaded on : 27.04.2026

+ FAO 352/2025

SMT. RAJ KUMARI & ORS.Appellants
Through: Mr. Kshitiz Jain, Mr. Rohan Chandra
and Ms. Ananya Mago, Advocates

versus

UNION OF INDIARespondent
Through: Mr. Vinay Yadav, CGSC with Mr.
Vipul Kumar, GP

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 79947/2025 (exemption)

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

FAO 352/2025

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 13.05.2025 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(U)/DLI/265/2024.
2. Vide the impugned judgment, the Tribunal dismissed the claim application filed by the appellant herein on the ground that the deceased was neither a *bona fide* passenger, nor was the alleged incident an "untoward



incident” as defined under the Railways Act, 1989 (hereinafter referred to as “the Act”).

3. The brief facts of the case, as stated in the claim application, are that on 16.08.2019, one Sh. *Devendra Singh* (hereinafter referred to as the “deceased”) had gone to *Aligarh* to visit his sister for the occasion of *Raksha Bandhan* and was returning therefrom by Train No. 54461 from *Aligarh* to *Dibai* Railway Station. It is the case of the appellants that while the train was in motion between *Rajghat Naraura* and *Dibai* Railway Station, the deceased accidentally fell from the running train during the night hours and sustained fatal injuries, as a result of which he died on spot.

4. Learned counsel for the appellants assails the impugned judgment by contending that the Tribunal has erred in disregarding the contemporaneous material on record, as the GRP proceedings and the inquest material consistently indicate that the deceased was found “lying near the railway track” and had sustained fatal injuries in a railway accident. It is further submitted that the post-mortem report records ante-mortem injuries which are consistent with the case of accidental fall from a moving train. It is also contended that the Tribunal has wrongly discarded the testimony of *Chandra Pal Singh*, who had specifically deposed that he had accompanied the deceased to *Aligarh* Railway Station and had got the journey ticket purchased for his travel. It is further contended that the Tribunal has erred in drawing adverse inference from the timing of recovery of the body and in holding that the body remaining unnoticed for some time goes against the case of accidental fall.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment by contending that no journey ticket was recovered from the



person of the deceased during *jamatalashi* and, therefore, the deceased cannot be treated as a *bona fide* passenger. It is further submitted that as per the DRM report, there was no report of any “untoward incident” by the loco pilot of Train No. 54461. It is also contended that the statements recorded during investigation, including that of the claimant, indicate that no ticket was found and that the circumstances of the incident remain unestablished.

6. This Court has heard the learned counsels for the parties and perused the material on record.

7. In the backdrop of the above facts, the two issues that arise for consideration are whether the incident in question constitutes an “untoward incident” within the meaning of the Act and whether the deceased was a *bona fide* passenger.

8. Coming first to the manner of occurrence, the contemporaneous material on record does not support the conclusion drawn by the Tribunal. The record reflects that the information regarding the dead body was received in the early hours of 17.08.2019, whereafter the deceased was found lying near the railway track at KM No. 124/08-09, between *Rajghat Naraura* and *Dibai*. The inquest proceedings record that the deceased was found “adjacent to the track” with injuries, and there is no material to indicate that the deceased was “run over” while crossing the railway line. The finding of the Tribunal to the contrary is not borne out from the record.

9. The Tribunal has, however, proceeded to rely upon the DRM report dated 24.06.2024 to conclude that the occurrence took place in an “unknown sequence of events” and that the deceased was not travelling by train. A perusal of the said report shows that the inquiry was conducted after a lapse of nearly five years from the date of the incident and is admittedly not based



on any eyewitness account. The report itself records that the sequence of events is unknown and yet proceeds to draw an adverse inference against the appellants. 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: *Bhola vs. Union of India*¹)

10. The reasoning of the Tribunal that the body remained unnoticed for several hours and, therefore, the case of accidental fall is improbable, is equally untenable. The incident is stated to have occurred during the night hours and the body being noticed in the morning cannot, by itself, negate the occurrence of an accidental fall. A gainful reference in this regard, may be made to the decision of *Sh. Surendra Prasad Verma vs. Union of India*², wherein it has been held that mere delay in the recovery or discovery of the body cannot, by itself, be a determinative factor to disbelieve the case of accidental fall, particularly in the absence of any cogent evidence to the contrary. Applying the said principle to the facts of the present case, the mere fact that the body was noticed after some time cannot lead to an adverse inference against the claimant or discredit the appellant's version.

11. Insofar as the issue of *bona fide* travel is concerned, the Tribunal has rejected the claim primarily on the ground that no journey ticket was recovered from the person of the deceased. This approach is contrary to the

¹ (2018) SCC OnLine Del 13486

² (2014) SCC OnLine Del 2917



settled position of law. In *Union of India vs. Rina Devi*³, the Hon'ble Supreme Court has held that the initial burden on the claimant can be discharged by filing an affidavit and placing relevant circumstances on record, whereafter the burden shifts upon the Railways to rebut the same. It has been further clarified that mere non-recovery of a ticket cannot, by itself, be treated as conclusive to deny compensation.

12. In the present case, the appellants have discharged this initial burden. AW-2, *Chandra Pal Singh*, has categorically deposed that he had accompanied the deceased to the railway station and had got the journey ticket purchased for travel from *Aligarh* to *Dibai*. The Tribunal has discarded this testimony on the ground that he was a witness to the *panchnama* proceedings, and was, thus, a highly interested witness and not a truthful one. The Tribunal has further relied upon certain discrepancies in the testimony of AW-2 with regard to distance and timing to discredit the witness. A perusal of the deposition shows that these discrepancies are peripheral in nature and do not affect the substratum of the case. Minor inconsistencies relating to distance or timing, especially when the testimony is recorded years after the incident, cannot be elevated to the level of discrediting the entire version of the witness. In the opinion of this Court, such reasoning is legally unsustainable, as it itself is not a ground to discard testimony, particularly when the core of the statement, namely the purchase of ticket and commencement of journey, remains consistent.

13. Further, the surrounding circumstances lend corroboration to the appellants' case. It has come on record that the deceased had travelled to *Aligarh* to celebrate *Raksha Bandhan* with his sister, and significantly, a

³ (2019) 3 SCC 527



Rakhi was also found on the person of the deceased, as noted in the post-mortem proceedings. This circumstance assumes importance, as it corroborates the version of AW-2 that the deceased had travelled to *Aligarh* and was returning thereafter. The Tribunal has failed to appreciate the evidentiary value of this circumstance.

14. Once the appellants had discharged the initial burden, the onus shifted upon the respondent to establish that the deceased was not a passenger or that the case falls within any of the statutory exceptions. The respondent has failed to discharge this burden. The DRM report does not provide any cogent alternative explanation and merely records an “unknown sequence of events”. The statement of the loco pilot only indicate absence of reporting and do not negate the possibility of an accidental fall.

15. In the absence of any rebuttal evidence, the presumption arising in favour of the appellants remains intact. This Court is of the view that the Tribunal, in the present case, adopted an unduly rigid standard of proof, overlooking the beneficial object of the Act as well as the settled principle that proceedings, thereunder, are intended to provide prompt and efficacious relief to the victims of railway accidents, and has, therefore, erred in rejecting the claim by adopting a hyper-technical approach and by placing undue reliance on conjectural material while ignoring the surrounding circumstances and settled legal principles.

16. It is well settled that the provisions relating to compensation under Section 124-A of the Act constitute a piece of beneficial legislation and must be construed liberally. In Union of India vs. Prabhakaran Vijaya



Kumar⁴, the Supreme Court held that once the occurrence of an “untoward incident” is established, the liability of Railways is strict unless the case falls within the statutory exceptions. Similarly, in Union of India vs. Rina Devi (supra), it was held that the non-recovery of a ticket is not itself sufficient to defeat a claim for compensation.

17. 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 11.05.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

APRIL 27, 2026

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⁴ (2008) 9 SCC 527