



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

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Judgment reserved on: 26.08.2025

Judgment delivered on: 24.09.2025

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FAO 100/2022

PRAHALAD & ORS.

.....Appellant

versus

UNION OF INDIA

.....Respondent

Memo of Appearance

For the Petitioner: Mr. Prashant Kumar Shisodia, Advocate

For the Respondent: Mr. Subhash Tanwar, CGSC with Mr. Naveen, Mr. Sandeep Mishra and Mr. Harshit Deshwal, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. Appellants are husband and children of the deceased Sarojwati.
2. They had filed a claim petition under Section 16 of *Railway Claims Tribunal Act, 1987* (hereinafter referred to as 'said Act') seeking compensation of Rs.4,00,000/- (Rupees Four Lacs) contending that while undertaking train journey on 22.01.2016, deceased Sarojwati met with an "untoward incident".
3. Such claim petition has been dismissed by learned Railway Claims Tribunal *vide* judgment dated 18.12.2019, which has been impugned before this Court by filing present appeal under Section 23 of said Act.
4. Let me narrate the facts, germane to the present appeal.
5. The deceased was allegedly travelling on 22.01.2016 from Ghaziabad to Mathura in a passenger train. Due to heavy rush, she stood near the train gate and, while preparing to de-board at Mathura Station,



she got pushed due to a jerk and crowd- pressure. Resultantly, she fell from the moving train at Bhuteshwar Railway Platform No.1 and sustained fatal injuries and died on the spot.

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

“i) Whether the deceased was a bonafide passenger of the train in question at the time of accident?

ii) Whether the deceased suffered injuries & died in an untoward incident while travelling in the train in question?

iii) Whether the Respondent is protected under the exceptional clause of Sec. 124 (A) of the Railways Act and not liable to pay any compensation?

iv) Whether the applicants are the only dependents of the deceased?

v) Relief?”

7. Appellants argued before the learned Tribunal that the deceased had met with an “*untoward incident*” and since she was a *bonafide* passenger, they were entitled to compensation under Section 124A of said Act.

8. Such claim was resisted by the respondent by asserting that she was not a *bonafide* passenger of the train in question. It was claimed that deceased was illegally crossing tracks in Bhuteshwar Yard when she was run over by Train No. 22692 (Rajdhani Express), constituting a case of self-inflicted injury due to negligence and, moreover, no journey ticket or eyewitness was present and, therefore, due to lack of evidence and procedural lapses, claim of the appellants did not qualify for compensation under the said Act.



9. Appellant No. 1 Mr. Prahalad (husband of deceased) entered into witness box and in his affidavit, he reiterated the averments made in the claim petition and deposed that his wife was travelling in a passenger train on a general category ticket and boarded train from Ghaziabad for Mathura. Admittedly, his wife was travelling alone and he does not have any first-hand knowledge as to how she met with accident, but according to him, the brother of his wife had got her boarded at Ghaziabad Junction Railway Station and they learnt about the incident when they received information from the respondent about her death. In his cross-examination, he reiterated that she was travelling alone i.e. not accompanied by any family member or friend. It was suggested to him that his wife was run over by Rajdhani Train and such suggestion was labelled as incorrect (*yeh kahna galat hai ki meri patni ki mirtyu rajdhani gaadi ki chapet mein aakar hui*).

10. Brother of deceased i.e. Krishn has also deposed in his affidavit that he had left his sister at Ghaziabad Junction Railway Station after purchasing a ticket for her. He also, in all fairness, admitted in his cross-examination that he did not know about the manner in which she had died as he was not present at the spot.

11. Respondent did not examine anyone in its defence.

12. The claim petition was dismissed holding that the story put forth by claimants that the deceased was a *bonafide* passenger of said train did not get corroborated either by oral or documentary evidence. It also held that the fact the deceased was not in possession of a valid railway travelling authority for her journey on the relevant day, also clearly proved that her presence in the railway premises was unauthorized and



that she was not a *bonafide* railway passenger, as per Section 2(29) of the *Railway Act, 1989*.

13. Such order is under challenge.

14. It needs to be assessed whether Sarojwati was a '*bonafide passenger*' and whether she had died on account of any "*untoward incident*" or not.

15. Right here, it needs to be mentioned that the version of appellants is hearsay in nature as according to them, deceased was not accompanied by any family member or friend. Unfortunately, even the version of Railways remained hearsay as, despite having knowledge about the manner in which the death has taken place, they did not examine anyone to prove that deceased got run over or hit on account of her own negligence.

16. Importantly, the stand of the respondent/Railways is unclear and inconsistent.

17. In their reply, they have stated that the deceased was run over by the Rajdhani Express.

18. However, in the *Railway Police Report* dated 29.02.2016, a different version has been put forth, wherein it is mentioned that the deceased had alighted from an unknown train and was standing close to the edge of platform, when she was, allegedly, hit by Rajdhani Express.

19. There is significant dissimilarity between these two versions.

20. Being "run over" implies that the deceased was crossing the railway tracks, whereas the second version suggests that she was standing very close to the edge of the platform and got hit, in the process, by a train which passed through said station in a jiffy.



21. Respondent did not examine anyone who might have actually seen the deceased being struck by the Rajdhani Express while she was, allegedly, standing at an unsafe distance from the platform edge. Since respondent had come up with a specific stand that deceased had died on account of her own negligence, the onus shifted on to them to have proved the same in accordance of law. Undoubtedly, the primary onus is, generally speaking, on claimants but since dead body was lying on a platform, not on the tracks, and since according to respondent, she died on account of her own negligence, it was imperative for them to have examined someone to prove the manner in which accident had taken place, more so, when they claim to have knowledge about the same.

22. Things would have been different, if they, too, had pleaded complete ignorance as to how the accident had taken place.

23. Once a specific stand had been taken, it was for them to have established the same. Thus, Railways failed to substantiate that the deceased had died due to her own negligence.

24. The claimants' case, as already noted, is, admittedly, not based on any eyewitness's account. However, since the deceased's body was found lying on a platform, it was for Railways to have provided a convincing and credible explanation as to how she died. According to their own version, the deceased was standing at an unsafe distance and came in collision with a passing train. In yet another version, it claimed that she had been run over by the Rajdhani Express while it was passing through said station.

25. There is no evidence to prove either of said two versions.

26. No loco pilot of either of the trains has been examined.



27. No official present at the platform, who allegedly saw the accident, has been examined either.

28. There is no explanation or justification in holding back any such evidence. The adverse inference, therefore, has to be drawn against Railways only.

29. Thus, considering the totality of the facts, the version presented by the claimants/appellants appears to be more plausible one, particularly because the body was found lying on the platform. This strongly indicates that it is not a case where the deceased was run over by any train.

30. Quite clearly, the abovesaid aspects have not been properly appreciated by the learned Tribunal.

31. In *Union of India v. 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 also 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) 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.”

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

33. 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.

34. It is not difficult to imagine that in such type of incident/mishap, resulting in death, the ticket can get easily lost in the process. Even in *Rina Devi* (supra), it has been categorically held that mere absence of ticket with such injured or deceased would not negate the claim that he was a *bonafide* passenger. Keeping in mind the factual matrix of the present case, and the manner in which the incident had taken place, possibility of the ticket getting lost in the process cannot be ruled out. Consequently, the deceased is held as a *bonafide* passenger.

35. In *Rukmani v. Union of India: 2023 SCC OnLine Del 7380*, this Court observed that mere fact that Railway ticket was not recovered from the dead body would be hardly of any consequence as such ticket can be presumed to have been fallen out of pocket on account of jerks or due to fall and resultantly, deceased was presumed to be a *bonafide* passenger.



36. In view of the above, this Court has no hesitation in holding that the reasons given by the learned Railway Claims Tribunal in rejecting the claim are not in consonance with the evidence. The plea that the injuries were suffered by the deceased due to her own criminal negligence is not comprehensible and, moreover, there is inconsistency in the stand of respondent. No evidence has been produced to show that deceased was hit by another train while standing on the platform. There is no evidence of her being run over, which fact is not even consistent with the injuries suffered by her. There is also nothing to indicate that she met with accident while trying to board any train from wrong side. Thus, the version of claimants that on account of push/jerks, she fell down from a running train, on a platform looks much more convincing which makes it to be a case of “*untoward incident*”.

37. Moreover, the incident in question, rather, reflects negligence on the part of the Railways.

38. If an individual is found standing alarmingly close to the edge of the platform, it becomes duty of the railway authorities/officials present at the station to warn and caution any such person exposed to imminent danger, instead of turning a blind eye. Moreover, if at all, it was a case where according to respondent, she herself was responsible for her death, it should have examined any such witness who might have seen her standing at the edge and then coming in contact with a train which passed through at a lightning speed. If respondent is to be believed, such fact was revealed by their own officials i.e. Gangman Harish and Gangman Mukesh. They were not examined. Taking such a specific stand and then not proving it can be taken as a ploy to wriggle out of liability to pay any



compensation. Respondent was in the best position to provide explanation as dead body was found on their platform. However, respondent, to make things worse, did not lead any evidence at all.

39. DRM report was filed after the trial was over. It has not even been proved by anyone.

40. As an upshot of my aforesaid discussion, the present appeal is allowed and the impugned order is set aside.

41. 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 ten weeks from receipt of this order. Learned Railway Claims Tribunal would also answer issue No. 4 and 5 in accordance with law and we leave it to the learned Tribunal to decide the rate of interest and its period.

42. Parties are directed to appear before the learned Tribunal on 28.10.2025.

43. Appeal stands allowed in the abovesaid terms.

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

(MANOJ JAIN)
JUDGE

SEPTEMBER 24, 2025/hj/js