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

% **Judgment reserved on: 11 March 2025**
Judgment pronounced on: 16 April 2025

\+ FAO 38/2022

SMT SAROJ & ORS. .....Appellants

Through: Mr. Rajan Sood, Ms. Ashima Sood and Ms. Megha Sood, Advs.

versus

UNION OF INDIA .....Respondent

Through: Mr. Raj Kumar Yadav, SPC with Mr. Vaibhav Bhardwaj and Ms. Tripti Sinha, Advs.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

DHARMESH SHARMA, J.

1. This appeal is preferred by the appellants *viz.,* the wife and two children and the parents of the deceased Sukhbir Singh under Section 23 of the Railway Claims Tribunal Act, 1987 ["**RCT Act**"], seeking setting aside/quashing of the impugned award dated 21.09.2020 passed by the learned Presiding Officer, Principal Bench, Delhi ["**Tribunal**"] in case bearing No. OA(IIU) No. 253/2019, whereby their claim for compensation on account of death of Sukhbir Singh was dismissed.

FACTUAL MATRIX:

2. Briefly stated, the appellants filed an application under Section 16 of the RCT Act stating that Sukbhir Singh was employed in the

Indian Army and on 07.02.2018 he was given a 'Movement Order' to travel to Panipat and Jhajjar for collection of stores; and that he purchased a railway ticket and travelled from Delhi Cantt to Rewari; that on 08.02.2018 he purchased another ticket from Rewari to Mahendargarh and boarded train number 74845 at about 7.30 a.m. from Rewari.

3. It was claimed that Sukhbir Singh fell down from the train at Mahendergarh Railway Station and died at the spot. It was also averred that deceased had a handbag in which, ATM[1], driving license, movement order etc. were found lying by Mr. Om Praksh, Trackman near the dead body of the deceased. It was, however, claimed that ticket from Rewari to Mahendergarh and cash were lost during the course of the incident. The respondent/railways in its written statement based on the DRM[2] Report took a stand that the dead body of the deceased was found after the train No. 74845 had left the Mahendergarh Railway Station on the off-side of the platform and it was implied that he had committed suicide.

4. Based on the pleadings of the parties, the following issues were framed:

> "1. Whether the deceased was bona fide passenger of train at the time of incident?
> 2. Whether the alleged incident is covered within the ambit of Sec. 123(c)(2) read with Section 124-A of the Railways Act?
> 3. Whether the applicants are the sole dependent of the deceased?
> 4. Relief, if any?"

[1] Automatic Teller Machine
[2] Deputy Regional Manager

5. Learned Tribunal considered the *post mortem* report [Ex.A-17] to the effect that head of the deceased was decapitated and the same could not have occurred from falling off a passenger train, while it was coming to a halt. It was also found that no personal belongings or articles were found near the dead body as per *jama talashi* [Ex.A-3] and rather, Mr. Om Prakash, the Trackman, who was posted on duty at Rewari Railway Station had handed over a bag to the IO[3] only on 25.02.2018. It was thus found that the claim of the appellants that certain documents were found near the dead body was obviously not correct.

6. Although, it was found that the Court of Enquiry set up by the Army Authorities had opined that the victim had fallen from the train at Mahendergarh Railway Station and died at the spot, however, it was not based on any eye witness account and the said report was found to be not conclusive. It was thus held that the victim was not a *bonafide* passenger and for the fact that there was no reason for the victim to get down at Mahendergarh Railway Station, it was held to be not a case of 'untoward incident' and accordingly issues No.1 and 2 were decided against the appellant. Hence, the present appeal.

ANALYSIS & DECISION:

7. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties and I have also perused

[3] Investigating Officer

the relevant record of the case including the digitized record of the Tribunal.

8. **First things first,** it would be expedient to reproduce the reasons which prevailed in the mind of the learned Tribunal in deciding the issues No.1 and 2 against the appellants which read as under:

> **"Issue nos. 1 and 2**:-
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> Issue numbers 1 and 2 are being taken together as they are interconnected. Th counsel for the applicant has stated that Sh. Şukhbir Singh (hereinafter referred to as the deceased) had, travelled from Delhi Cantt. to Rewari on 07.02.2018 with valid ticket number 77532346 and thereafter travelled from Rewari to Mahendragarh on the next day, that is, 08.02.2018 by 74845 Passenger train. He fell from the train at Mahendergarh Railway Station and died as a result of this untoward incident. The ticket was lost in the process.
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> Counsel for the respondent has stated that no ticket was discovered on the body of the deceased at Mahendragarh Station and this is clearly mentioned in the Jamatalashi by Sh. Risal Singh, SI/GRP which has been submitted at A-4 of the claim application itself. In fact nothing of any kind was found in the Jamatashi. Further, it was argued that the train number 74845 was a passenger train and had stopped at Mahendragarh Railway Station. As per the Memo of the Station Master, the body was discovered only after the train had departed Mahendergarh Station and it was found on the off-side as per the Memo of the Station Master, Mahendergarh attached as exhibit A-3 of the claim application. As per the Post Mortem Report at Ex. A-17, the head was decapitated and this could not have occurred from, a fall from a stopping or stopped passenger train. It was therefore, argued that the deceased was neither a bonafide passenger nor the victim of an untoward incident.
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> Perusal of the records shows that the claimants have stated in the application and in their affidavit that "*the deceased Sukhbir Singh was having handbag in which cash, ticket, ATM, DL, Movement order, etc. were lying and all the papers were spread over near the bag. Om Prakash track man received the bag, near the dead body of the deceased Sukhbir Singh, who handed over the same to the IO on 25.02.2018. The ticket from Rewari to Mahendergarh and cash, fly in the wind, lost/not found in the untoward incident*".

As may be seen from the above that the claimant has stated in the affidavit that Om Prakash, Trackman, found the bag near the dead body of the deceased Sukhbir Singh. As per the statement of Sh. Om Prakash, Trackman, attached in the claim application itself at Ex. A-5 and with the DRM report (S.No. 72), it is seen that Sh. Om Prakash, Trackman was on duty on 08.02.2018 at Rewari Railway Station and not at Mahendragarh Railway Station. He found the above-mentioned documents on his way from his quarter in Railway Colony, Rewari to the office of SSE/PW/Rewari on Platform 8 on 08.12.2018. Therefore, the claim in the affidavit that the documents recovered by Shri Sukhbir Singh were found near the dead body is obviously incorrect, since the dead body was found at Mahendergarh Railway Station while Sh. Om Prakash was at Rewari Railway Station. The statement of Sh. Om Prakash establishes that the claimants have made an incorrect claim in their affidavit.

Further, it is been seen that in the Jamatalashi by the GRP at Mahendergarh, no documents were found and no ticket from Rewari to Mahendergarh as claimed in the affidavit was found. The argument of the respondent that a person falling from a passenger train which has already stopped or is stopping/starting cannot have his neck decapitated is also acceptable. The argument that there is no reason for the deceased to fall on the offside when was supposed to be deboarding the train at Mahendergarh which was stopping on the platform is also correct.

The record of the Court of Enquiry setup by the Army Authorities has also been perused in which it has been concluded that the victim fell from a train at Mahendergarh Railway Station and died on the spot. This conclusion, however, is based on statements of family members and of one Subedar Major Vijay Kumar, none of whom actually witnessed the incident. In the opinion of the Court of Enquiry, it has been held that Mahendergarh Railway Station does not fall on any of the three authorised routes of travel for performance of the Temporary Duty from Delhi to Jhajjar/Panipat. The Court of Enquiry does not comment on the availability or absence of a ticket from Rewari to Mahendergarh with the deceased. It has concluded that the death of Sh. Sukhbir Singh is not attributable to military service. This report was sought by the Tribunal in its Order of 17.05.2019. It is found that the report of the Court of Enquiry by the Army authorities has not been cited by the claimants anywhere as it does not support the case of the

claimants and could, in fact, damage it as it indicates that the deceased had gone to Mahendragarh unauthorisedly.

Taking all factors into consideration it is held that while the deceased travelled from Delhi Cantt. to Rewari on a valid ticket on 07.02.2018, he did not travel from Rewari to Mahendergarh on 8.02.18 with a valid ticket. Had he possessed a valid ticket it would have been found either during the Jamatalashi at Mahendergarh or with his belongings which were lost at Rewari. It is also seen that the deceased was not traveling on the route authorised by the Army authorities. It is noted that the affidavit has made a false averment that his belongings were found near his dead body by Shri Omprakash, Trackman as the dead body was found at Mahendergarh whereas his belongings are found by Sh. Om Prakash at Rewari Railway Station. It is also accepted that the deceased had no reason to try and deboard on the off-side at Mahendergarh when the train on which he is said to have been traveling was a stopping passenger train and he could well have deboarded on the platform at Mahendergarh Railway Station.

From these facts, it is concluded that Shri Sukhbir Singh was neither a bona fide passenger nor a victim of an untoward incident on 08.02.18. No claim is therefore payable in this case."

9. At the outset, the aforesaid reasons given by the learned Tribunal cannot be said to be illegal, perverse or suffering from any infirmity in law and facts. It is brought out that the dead body of the deceased was found soon after the train had left the Mahendergarh Railway Station. The *post mortem* report proven on the record would show that head of body had been decapitated and there were no other injuries on the body, which could possibly show that he had fallen from a running train or otherwise when train was coming to a halt or moving forward. There is no eye witness account as to how the accident occurred. Surprisingly, neither any documents such as identity card or 'Movement Order' or for that matter any cash was found on the body of the deceased as per

the *jama talashi* which was prepared at the spot, which is Annexure-E.

10. The fact that the dead body was found on the off-track soon after the train had left ruled out any possibility of personal belongings of the victim having been stolen or taken away by someone. The statement of Mr. Om Prakash, the Trackman that he had found some papers scattered on the railway track at Mahendergarh sometimes in the morning of 08.02.2018 and had handed over the same to the IO is not inspiring any confidence. Learned Tribunal rightly concluded that the said witness was posted at Rewari Railway Station and it was not made clear as to how come he was at Mahendergarh Railway Station in the morning of 08.02.2018. It was his own deposition that he had found a 'Military Movement Order' inside the bag and yet the said bag was handed over quite belatedly to the IO.

11. It is also pertinent to mention that the report of the Court of Enquiry, which is Annexure-L, would also go to suggest that victim had indeed deviated from the path of his 'Movement Order' since Mahendergarh Railway Station was not supposed to fall on any of the three authorized routes of travel for performance of temporary duty from Delhi to Jhajjhar, Jhajjhar to Panipat and Panipat to Delhi.

12. In the aforesaid scenario, the fact that no railway ticket was found on the body of the deceased and there is no apparent negligence exhibited on the part of the railways, it is difficult to hold that the deceased died in an 'untoward incident'. Therefore, the respondent/railways cannot be vested with any liability in terms of

Section 124-A[4] of the RCT Act.

13. Accordingly, the present appeal is dismissed.

DHARMESH SHARMA, J.

APRIL 16, 2025
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[4] 124A. Compensation on account of untoward incidents.—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 dependant 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 of 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 purpose 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.