IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 1887 of 2025

Mithuya Roy (Sarkar) & Ors.

VERSUS

Union of India

For the appellants/claimants: Mr. Sujay Sinha, Adv.

For the respondent/Union of India: Mr. Asis Mukherjee, Adv.

Last Heard on: September 15, 2026

Judgment on: October 01, 2026

Biswaroop Chowdhury, J:

The appellants before this Court were applicants in a case under Section 124A of the Railways Act 1988 and are aggrieved by the Judgment and Award dated 25-05-2023 passed by Learned Railway Claims Tribunal Kolkata Bench in OA(IIu)/Kol/25/2022.

The case of the appellants before the Learned Tribunal may be summed up thus:-

The accident took place on 27/11/2021 at night at about 23.30 to 23.45 hours. The victim who was a resident of Shimurali Nadia on 27/11/2021 early morning came to Palpara Station nearest and convenient rail head along with his wife Mithuya Roy Sarkar after purchasing a return Journey ticket for both of them from Palpara to Dumdum Cantonment Both of them boarded a local train from Palpara Station. He was on his way to Dum-Dum Cantonment to his relative's house and also for some personal work purpose at Dum-Dum area. On their way they alight at Dum-Dum Junction Station to catch a train for Dum-Dum Cant. as there is no direct train service available on that particular route from Palpara. After completion of his work and brief stay at his relative's house at Dum-Dum Cant. they again came to Dum-Dum Junction Station at late night and boarded an up Ranaghat bound local train from that station to return back to their house. During the course of journey when the train arrived at Barrackpore station victim came near the door of the said train compartment with an intention to see his brother Basudev Roy who came to Barrackpore for his work and was supposed to board that train from that station but unable to see his brother Basudev Roy who came to Barrackpore for his work he stood near the door and in the process when the train reached at Naihati end of Platform no. 1 at Km Past no. 25/4-25/6 in between Palta and Ichapore Station due to sudden jerk the victim lost his balance and fell down from the running train. The victim's wife who was inside, the compartment after listening the hue and cry of other passengers that some person had fallen down from the compartment she became sure that her

husband had fallen down. Instantly she tried to call her brother in Law, who was supposed to board the same train. When the train reached next station at Ichapore she alighted from the train waited for her brother in law who also after knowing such incident alighted at Ichapore Station and met with the victim's wife and came back to Palta; In the meantime on being officially informed by the booking superior of Palta railway station through a memo which was treated as first information report investigating officer of Naihati GRPS reached the accident spot at about 1.00 AM midnight and prepared. Inquest report in the presence of available witness. During inquest two journey tickets were recovered from the body of the victim which were seized-

The respondent Railway Authority contested the case by filing written statement. ISSUES were framed and evidence was adduced. Learned Tribunal upon considering the evidence adduced and upon hearing the Learned Advocates was pleased to dismiss the claim case by observing as follows:-

'The applicant could not succeed to prove by adducing cogent evidence that the deceased was travelling in the train on the date of incident and that his death was caused by injury due to fall from a running train Besides the ticket did not belong to the deceased.'

The appellants/applicants being aggrieved by the Judgment passed by the Learned Tribunal has come up with the instant appeal.

Heard Learned Advocate for the appellant and Learned Advocate for the respondent. Perused the materials on record.

Learned Advocate for the appellant submits that the Learned Tribunal has rejected the claim solely on conjunctures and surmise without considering the entire chain of documentary evidence. Learned Advocate further submits that, FIR, Investigation Report Final Police Report, post Mortem Report certified copy of Railway Tickets, and seizure list were exhibited without objection thus the said documents cannot be discarded merely on speculative reasoning.

Learned Advocate also submits that the Railway has never disputed time of occurrence place of occurrence, and recovery of dead body from railway track. It is submitted by the Learned Advocate that the Inquest Report reveals that the deceased travelled with his wife, and he accidentally fell between Palta and Ichapore Station. Wife cum co-passenger and relatives subsequently identified the body. Learned Advocate submits that the tribunal relied upon the decision in Jetty Naga Lakshmi Parvathi and ors. VS Union of India and proceeded on the basis that the initial burden was upon the claimants. However the said principle does not mean that the claimant must produce an eyewitness or an undisputed railway ticket in every case.

Learned Advocate further submits that the Tribunal proceeded upon its perception that the conduct attributed to the wife was contrary to ‘common sense’ and ‘normal human behavior.’ However human behavior following a sudden railway accident cannot be reduced to one predetermined pattern of conduct. A person witnessing a sudden fall of a close family member from a moving train may react with shock confusion fear, helplessness or panic.

Learned Advocate also submits that minor variations regarding the wifes subsequent destination could not destroy the core of her evidence.

Learned Advocate relies upon the following Judicial decision:-

Rajni and Anr. VS Union of India.

Reported in 2025 INSC. 1201.

Rumpa Mallick and ors VS Union of India.

FMA-1315 of 2015.

(High Court at Calcutta).

Sulata Kanji and Anr. VS Union of India.

FMA-1886 of 2025.

(High Court at Calcutta)

Kharka Bahadur Chetri VS Union of India.

FMA-1134 of 2024.

(High Court at Calcutta).

Smt. Yellamma VS Union of India.

FMA-No.-6117/2016.

(High Court at Karnataka)

Ram Sudha Devi VS Union of India.

MA-229 of 2009.

(High Court at Patna).

Learned Advocate for the respondent Railway Authority submits that the appellant failed to prove that the death of the victim was an untoward incident. Learned Advocate further submits that no independent co-passenger railway employee, guard, station official or local eyewitnesses was examined to establish that the deceased had boarded the alleged train or was travelling therein or fell from it. Learned Advocate also submits that the post mortem report states that death was due to the effect of head injury, and it does not state that the head injury arose from accidental fall from running train.

It is submitted by the Learned Advocate that the version of AW-1 is contradictory and the versions do not concern a minor discrepancy. The three versions place her at, Ichapur Palpara and Ranaghat after the same alleged occurrence. It is further submitted that the alleged ticket recovery is not proved and the alleged seizure does not establish that tickets were recovered from the deceased or that he was a bona-fide passenger. It is also submitted that AW-1 a signatory to the seizure list was not present at the spot when body was searched. The other witness Amit Roy was a GRPS constable and was not an independent recovery witness. It is submitted that the appeal be dismissed.

Before proceeding to decide on the issue it is to be remembered that it is an admitted fact that body of the victim was recovered from railway track and there is no direct evidence that the victim was run over by any train or that the victim's house is near the place where the accident took place, and it is quite far from the place where the body was recovered. Thus there is no scope to presume that the victim was crossing the Railway Track. In the case of Kharka Bahadur Chettri VS Union of India (supra) it was observed as follows:-

'The Railway Authority in the absence of identification of the body came to the finding that it is a case of knocking down by running train but when the body is identified and the place of residence of the victim is ascertained there is no scope to accept the findings of running down by train in absence of direct evidence when the victim is not residing in the area where incident took place nor has any place of business or employment in the nearby area but resides in a place about more than 1000 Kilometres from the place of incident.'

Similarly in the instant case considering the place of residence of victim and place of recovery of body at night there is no scope to presume that the victim came to the railway track.

Although the post mortem report mentions only about head injury and not about falling from train but the recovery of body, the head injury and post mortem report taken together will be the ground to arrive at a conclusion about death due to fall from train.

Upon perusal of the evidence of AW-1 it appears that AW-1 specified in details about the incidents which took place on the date of accident, as well as the place and time of accident.

In cross-examination also the witness stated about the date of accident and that she was with her husband on the said date and that they boarded the train from Dum-Dum cantonment. She further stated that her Bhasur was to board the same train and so her husband was watching whether he boarded the train or not. Thus nothing could be shaken in cross-examination of AW-1 that she along with her husband boarded the train from Dum-Dum-Cantonment on the date of accident and that her Bhasur was to board the same train and so her husband was watching whether he boarded the train or not.

The statement of AW-1 is corroborated by the statement of Basudev Roy before RPF. Basudev Roy in the statement before RPF contended that on 27-11-2021 he was at Palta area for his work and by night he had to pick up the UP train from Palta Station and in that train his deceased brother and his wife Mithuya Roy also returned from Dum-Dum-Cantonment. But on the said day he tried to call his deceased brother and there was no response. In the morning he got information from GRP/Naihati that his brother died in Rail accident.

The Inquest Report and Final Report under Section 174 CrPC submitted by Police Authority further strengthens the case of the Appellants about victim Somnath Roy dying due to fall from the train.

Although there is discrepancy in statement of AW-1 with regard to place she went after accident but the fact she boarded the train along with her husband being established the discrepancy with regard to places she went after accident is not fatal. As AW-1 faced a tragic incident in her life, confusion in making statement's and discrepancy recorded is not unnatural.

Now with regard to recovery of journey ticket although it is held in different Judicial pronouncements that mere non-recovery of Railway ticket is not fatal but in the instant case Police Authority has recovered two railway tickets by preparing seizure list. As general people are not always available to sign seizure list near railway track where body is found the signature of Police person cannot be a ground to disbelieve the seizure list.

When Police Authority has conducted investigation in accordance with law and submitted report the said report should not be discarded on the ground that investigation is perfunctory without examining the investigating officer. In the facts and circumstances discussed above this Court is of the view that the death of the victim Somnath Roy was an untoward incident. Thus the appellants are entitled to compensation.

Hence this Appeal FMA-1887 of 2025 stands allowed. The Judgment and Award dated 25/05/2023 passed by the Learned Railway Claims Tribunal Kolkata in Claim Case No. OA(IIu)/Kol/25/2022 is set aside. The appellants are entitled to compensation of Rs. 8,00,000/-. The respondent Railway Authority shall deposit Rs. 8,00,000/- along with interest @6% per annum

from date by filing claim case till today. Such deposit shall be made within 8 weeks from the date of communication of this Order. The appellant are entitled to withdraw the compensation upon compliance of necessary formalities.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)