HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 4318/2019
CNR: RJHC020733852019 | URN: CMA / 6749U / 2019

The Union Of India, Through General Manager, North Central Railway, Allahabad (U.P.)

----Appellant

Versus

1 Smt. Manisha Sharma W/o Late Shri Santosh Kumar Sharma, Aged About 30 Years, R/o Chobey Mohalla, Near Jangid Temple Mahua, Tehsil Mahua, District Dausa (Raj.)

2 Master Ishant Sharma S/o Late Shri Santosh Kumar Sharma, Aged About 7 Years, Being Minor Hence Through His Natural Guardian And Mother Smt. Manisha Sharma Applicant No.1, R/o Chobey Mohalla, Near Jangid Temple Mahua, Tehsil Mahua, District Dausa (Raj.)

3 Hajari Lal Sharma S/o Late Shri Bhagwati Prasad Sharma, (Died During Pendency Of The Claim Application) R/o Chobey Mohalla, Near Jangid Temple Mahua, Tehsil Mahua, District Dausa (Raj.)

4 Smt. Shakuntala Devi W/o Shri Hajari Lal Sharma, Aged About 61 Years, R/o Chobey Mohalla, Near Jangid Temple Mahua, Tehsil Mahua, District Dausa (Raj.)

----Respondents

For Appellant(s)	:	Mr. Sanjay Mishra
For Respondent(s)	:	Mr. Ajay Shukla, Mr. Raghav Sharma, Mr. Shivam Sharma and Ms. Jyoti Sharma

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HON'BLE MR. JUSTICE SUDESH BANSAL

Judgment

01/09/2026

1. The appeal comes up on a Misc. Application (IA No. 1/2025) filed by respondents-claimants, seeking vacation of the ex parte stay order dated 23.09.2019, whereby and whereunder operation

of the impugned judgment dated 10.07.2019 was stayed. However, with the consent of counsel for both parties, the appeal itself has been heard finally on merits.

2. Instant appeal under Section 23 of the Railway Claims Tribunal Act, 1987, has been preferred by and on behalf of the Union of India, assailing the judgment dated 10.07.2019 passed by the Railway Claims Tribunal, Jaipur Bench, Jaipur, in OA-II-252/2015, whereby the claim application filed by respondents-claimants was allowed and appellant was directed to pay compensation to the tune of Rs.8,00,000/- along with interest @ 9% per annum from the date of order till the date of actual payment.

3. Heard learned counsel for both parties and perused the record, including the impugned judgment.

4. The relevant facts, in a nutshell, as culled out from the record, are that:-

(i) one person, namely, Sh. Santosh Kumar Sharma, died on 21.10.2015 at Mandawar Railway Station. He was travelling by train from Lucknow to Mandawar Railway Station and, after his death, his natural heirs filed a claim application stating, *inter alia*, that during the railway journey, on account of receiving a jerk, he fell down from the train, sustained serious injuries and later on succumbed to the injuries.

(ii). The claim application was replied by the Northern Central Railway, taking a plea that the deceased was not a bona fide passenger and, since he was standing on the steps/ footboard of the train, his accidental death was not covered within the

definition of an "untoward incident". Rather, the case would fall within Section 124-A(c) of the Railways Act, 1989 (for short "the Act of 1989"). Hence, the claim application was liable to be dismissed.

(iii). Based on the rival pleadings, issues were framed by the Tribunal and evidence of both parties was recorded. Thereafter, vide impugned judgment dated 10.07.2019, the claim application has been allowed and appellant has been directed to pay the compensation indicated hereinabove. Hence, feeling aggrieved by the judgment dated 10.07.2019, the present appeal has been filed.

5. The submission of learned counsel for appellant is that no travelling ticket was found from the possession of the corpse of deceased and, therefore, he cannot be considered a "passenger" as defined under Section 2(29) of the Act of 1989. His submission is that the deceased died on account of his own criminal act or due to a self-inflicted injury and, hence, as per clauses (b) and (c) appended to the proviso to Section 124-A of the Act of 1989, no compensation is payable to claimants. His further submission is that the Tribunal erred in allowing the claim application, de hors to the aforesaid statutory provisions and, therefore, the impugned judgment deserves to be quashed and set aside.

6. *Per contra*, learned counsel appearing for respondents-claimants relied upon the decisions rendered by the Hon'ble Supreme Court in the cases of **Union of India v. Rina Devi [(2019) 3 SCC 572]** and **Lata v. Union of India [2026 Supreme (SC) 789]**. On the strength of these decisions, it has

been urged by learned counsel for respondents that mere absence of a travelling ticket with an injured or deceased person, is not sufficient to negate a claim for compensation. His further submission is that, merely because a travelling ticket was not found from the corpse of deceased, he cannot be presumed to be a non-bona fide passenger, rather, the onus is on the Railways to establish that the deceased was not a bona fide passenger.

7. In respect of the "untoward incident", learned counsel for respondents placed reliance on the provision contained in Section 123(2) of the Act of 1989, which stipulates that an "untoward incident" means an "accidental falling of any passenger from a train carrying passengers". His submission is that the Tribunal has dealt with the issues factually as well as legally, which have been raised by learned counsel for appellant, and the findings recorded by the Tribunal in the judgment impugned, do not suffer from any manifest illegality or jurisdictional error. Rather, the findings are in consonance with the proposition of law expounded by the Hon'ble Supreme Court in catena of judgments delivered time to time.

Hence, the prayer of learned counsel for respondents is that the appeal deserves to be dismissed and, by vacating the stay order dated 23.09.2019, respondents-claimants may be permitted to recover the compensation awarded in the impugned judgment.

8. Heard. Considered.

9. Learned Tribunal framed Issue No.1 to consider that the deceased was bona fide passenger or not. After appreciation of evidence and considering the attending circumstances, Issue No.1 has been decided by the Tribunal in favour of claimants. Learned

Tribunal pondered over the fact that under what circumstances, ticket was not found in possession of the corpse of deceased. The Tribunal took into consideration the long journey undertaken by deceased by train from Lucknow to Mandawar and also considered that, after the incident, his corpse was carried from one place to another. Hence, the possibility of the travelling ticket having been misplaced could not be ruled out. The Tribunal also looked into the fact that no search was conducted by the Railway at the place where the incident occurred, rather the search was allegedly conducted after taking the deceased to the hospital. Based on such findings, the Tribunal disbelieved the report of the DRM and recorded a fact finding that the deceased was a bona fide passenger and covered under Section 2(29) of the Act of 1989. The fact findings recorded by the Tribunal on Issue No. 1 are based on appreciation of the evidence.

10. The Hon'ble Supreme Court, in case of **Lata** (supra), dealt with the issue of the burden of proof in respect of possession of a valid travelling ticket by an injured or deceased person and concluded that a technical approach and procedural lapses should not defeat the welfare aim of the statute, as it does not befit the Railways, as an instrumentality of the State, to take such restrictive and pigeonhole view. The Hon'ble Supreme Court affirmed the ratio decidendi expounded in its earlier decision in **Rina Devi** (supra) that mere absence of a travelling ticket with the injured or deceased, will not negative the claim that he was not a bona fide passenger. It was further observed that the initial burden will be on the claimant which can be discharged by filing

an affidavit of the relevant facts and burden will then shift on Railways and the issue can be decided on the facts shown or the attending circumstances. For ready reference, the relevant portion of the judgment is reproduced hereunder:-

> *"9. On the aspect of burden of proof, it has been held that the presence of a valid ticket is quite not possibly the only way the bona fide nature of the passenger can be established. In Kamukayi v. Union of India (2023) 19 SCC 116 the conclusion in Union of India v. Rina Devi (2019) 3 SCC 572 was referred to in following terms:*
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> > *10. This Court in Rina Devi [Union of India v. Rina Devi, (2019) 3 SCC 572 has explained the burden of proof when body of a passenger is found on railway premises. While analysing the said issue, this Court has considered the judgment of the Madhya Pradesh High Court in Raj Kumari v. Union of India [1992 SCC Online MP 96]and the judgments of the Delhi High Court in Gurcharan Singh v. Union of India [2014 SCC Online Del 101], the Andhra Pradesh High Court in Jetty Naga Lakshmi Parvathi v. Union of India [2011 SCC Online AP 828] and also considered the judgment of this Court in Kamrunnissa v. Union of India [(2019) 12 SCC 391] and in para 29 concluded as thus: (Rina Devi case (2019) 3 SCC 572)*
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> > *29. We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.*
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> > *(Emphasis supplied)*
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> > *The conclusion of the above discussion is that technical approaches and lapses in procedure should not defeat the welfare aim of the statute as it does not befit the Railways, as an instrumentality of the State, to take such restrictive, pigeonhole view. The governing standard is the preponderance of probabilities and not beyond reasonable doubt, as in criminal trials. The foundational facts that need to be established are - (i) travelling on the basis of a valid ticket; and (ii) an accident leading to death. Courts and Tribunals should always take a view that retains the objective of the Section as being accessible compensation with an underlying humanitarian perspective. [See: Rajni v. Union of India 2025 SCC Online SC 2182]*
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> > *(Emphasis supplied)*
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> *10. Well, the above is about what a passenger or his family members must show to get compensation from the Railways. But what is duty of the Railways towards the customer/traveller? To*

put things in perspective, it must be said that what happened in this case, that a traveller in a train, for whatever reason, fell off the train and injured himself or died, is not a rare occurrence."

11. The fact findings recorded by the Tribunal, having been tested on the touchstone of the ratio decidendi expounded by the Hon'ble Supreme Court in case of **Lata** (supra), this Court is of the considered opinion that the Tribunal has not committed any manifest illegality or perversity in deciding Issue No. 1 in favour of claimants and accepting the deceased as a bona fide passenger. This Court concurs with the finding of the Tribunal that merely on account of absence of a travelling ticket, which was not found from the corpse of deceased, the claim of respondents-claimants could not and ought not to have been negated. Accordingly, the first argument advanced by learned counsel for appellant is not acceptable.

12. As far as the resort sought to be taken by the Railways to clauses (b) and (c) of Section 124-A of the Act of 1989, a specific Issue No. 2 was framed and adjudicated by the Tribunal. While deciding the said issue, the Tribunal considered the factual matrix and the circumstances in which the deceased fell from the train at Mandawar Railway Station, and sustained injuries.

13. The Tribunal, after due appreciation of the DRM report, the police investigation report and the evidence adduced on behalf of claimants as well as the Railways, concluded that the entire material available on record leads to the conclusion that the deceased died on account of falling from a running train. For ready

reference, the relevant portion of the findings recorded by the Tribunal is reproduced hereunder:

> *"Hence, to meet out the initial burden of proof, the applicants by way of sufficient evidence both oral and documentary which remained unrebutted and unchallenged throughout, have succeeded in establishing their case that death of the deceased occurred due to a fall from the moving train and present case is well within the definition of Section 123(c)(2) of the Railways Act, 1989."*

14. Learned Tribunal observed that the act of deceased may be negligent, but cannot be considered a criminal act. Similarly, the Tribunal considered that it is not a case of self-inflicted injury by the deceased. Such findings recorded by the Tribunal are in consonance with the proposition of law expounded by the Hon'ble Supreme Court in case of **Rina Devi** (*supra*), wherein, while considering the concept of self-inflicted injury coupled with own criminal act of injured or deceased, the Hon'ble Supreme Court observed and held in paragraph 25 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 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."*
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> *(Emphasis supplied)*

15. This Court finds that the Tribunal has elaborately considered the plea of the Railways and observed that even if the deceased was standing on the steps of the train, the same is not an

uncommon occurrence for travellers in Indian trains. Such an act, at the most, may constitute negligence on the part of passenger, but cannot be treated as a criminal act. Such finding is in complete alignment with the proposition of law expounded by the Hon'ble Supreme Court in case of **Rina Devi** (supra).

16. In that view of the matter, this Court finds that the Tribunal has not erred in treating the accidental death of deceased as falling within the purview of an "untoward incident". The resort taken by the Railways to clauses (b) and (c) of Section 124-A of the Act of 1989, has rightly been rejected by the Tribunal. This Court is not inclined to interfere with such fact findings in exercise of its appellate jurisdiction.

17. No other submission assailing the impugned judgment has been advanced, except those discussed and dealt with hereinabove. The quantum of compensation awarded by the Tribunal is also not in dispute.

18. The net outcome of the foregoing discussion is that the present appeal fails and is hereby dismissed. The stay order dated 23.09.2019 stands vacated accordingly.

19. Stay application and pending application(s), if any, stand disposed of.

20. Record of the Tribunal be sent back.

(SUDESH BANSAL),J

Sachin Sharma/ S-55