



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

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+ **FAO 248/2021**

MOHAMMAD KALEEMAppellant

Through: Mr. Ritik Singh, Advocate
versus

UNION OF INDIARespondent

Through: Mr. J.K. Tripathi, SPC for UOI

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 26.03.2021 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(U)/DLI/229/2018.

2. The case of the appellant, as set out before the Tribunal, is that on 20.09.2017 he purchased a general class railway journey ticket from *Darbhanga* Railway Station for travelling to New *Delhi* and boarded *Bihar Sampark Kranti* Express at about 8:00 a.m. He further stated that when the train reached *Lucknow* Railway Station, he alighted from the train to drink water. Owing to heavy rush inside the compartment, after re-boarding the train he could only find space to stand near the entrance door and within about five minutes of the train leaving *Lucknow* Railway Station, due to a sudden push and pull of fellow passengers, he lost his balance and



accidentally fell from the moving train, as a result whereof he sustained grievous injuries and became unconscious.

It is further the case of the appellant that he was removed by some unknown persons to *Kasturba Gandhi Medical University, Lucknow*, where he was provided initial medical treatment.

3. Nearly one year after the occurrence, the appellant instituted the claim application under Section 16 of the Railway Claims Tribunal Act on 05.10.2018 seeking compensation for the permanent disability suffered by him. Since the application had been filed beyond the prescribed period of limitation, an application seeking condonation of delay was also moved, which came to be allowed by the Tribunal on 16.11.2018.

4. Before the Tribunal, the appellant examined himself as AW-1 and relied upon the original railway journey ticket, medical records, discharge summary of *Dr. Ram Manohar Lohia Hospital* and the disability certificate. The respondent, while filing its written statement and the Divisional Railway Manager's enquiry report, did not lead any oral evidence. The defence of the respondent was that no record regarding the alleged incident was available either with the Station Master, the Railway Protection Force (RPF) or the Government Railway Police (GRP) at *Lucknow* and, therefore, according to the respondent, no such "untoward incident" had occurred.

5. Upon appreciation of the material placed before it, the Tribunal dismissed the claim petition. The Tribunal principally observed that the appellant had not reported the occurrence to any Railway or Police official immediately after the alleged incident; no record regarding the incident was available with the Station Master, RPF or GRP; no eyewitness had been produced; and there was no material to establish that the injuries sustained



by the appellant had occurred on account of an accidental fall from a passenger train. Proceeding on the aforesaid reasoning, the Tribunal held that the appellant had failed to establish that he had suffered injuries in an “untoward incident” and consequently dismissed the claim petition.

6. Learned counsel appearing on behalf of the appellant contended that the appellant had consistently maintained, right from the claim petition till his deposition before the Tribunal, that he had sustained injuries after accidentally falling from *Bihar Sampark Kranti* Express shortly after the train departed from *Lucknow* Railway Station. It was further submitted that once the appellant had produced all documentary proof and entered the witness box in support of his case, the Tribunal was required to examine the claim on the touchstone of preponderance of probabilities and not insist upon proof of the incident in the manner required in a criminal trial.

7. *Per contra*, learned counsel appearing for the respondent supported the impugned judgment by submitting that the appellant had failed to produce any contemporaneous railway or police record regarding the alleged incident. It was argued that admittedly no information regarding the occurrence was furnished either to the Station Master, RPF or GRP and even the complaints relied upon by the appellant came to be addressed almost eleven months after the alleged incident.

8. This Court has considered the submissions advanced by the learned counsels for the parties and has carefully perused the entire record.

9. Before examining whether the appellant sustained injuries in an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of the Railways Act, 1989 (hereinafter referred to as the “Act”), it would first be necessary to determine whether the appellant has been able to



establish that he was travelling as a *bonafide* passenger at the relevant time.

10. The appellant has relied upon the original general class railway journey ticket bearing No. URB-15598534, issued from *Darbhanga* to New *Delhi* on 20.09.2017. The said ticket was produced before the Tribunal and exhibited during the appellant's evidence. Once the appellant produced the original journey ticket and entered the witness box to depose that he had undertaken the journey, the initial burden cast upon him stood discharged (Ref: *Union of India v. Rina Devi*¹). In the absence of any material to the contrary, this Court finds no reason to doubt that the appellant was travelling on a valid railway journey ticket and was, therefore, a *bona fide* passenger within the meaning of the Railways Act.

11. Having held that the appellant was a *bona fide* passenger, the next question which arises for consideration is whether the injuries sustained by him were the result of an "untoward incident" as defined under Section 123(c) of the Act. The Tribunal answered the said issue against the appellant principally on the ground that there was no official record available with the Railway Administration or the Police regarding the alleged occurrence and that no independent witness had been produced in support of the appellant's version.

12. The appellant entered the witness box as AW-1 and deposed that while travelling from *Darbhanga* to *Delhi* and he got down at *Lucknow* Railway Station to drink water. According to him, after re-boarding the train, he was compelled to stand near the entrance door on account of heavy rush in the compartment and, shortly after the train left *Lucknow* Railway Station, he lost his balance due to a push from fellow passengers and fell

¹(2019) 3 SCC 572



from the moving train. His deposition further records that on receiving information, his brother reached Lucknow on the following day, got him discharged and shifted him to Dr.*Ram Manohar Lohia* Hospital, New *Delhi*, on 22.09.2017, where he remained admitted for nearly two and a half months.

13. A careful reading of the appellant's deposition shows that his version regarding the manner in which the incident occurred has remained substantially consistent throughout the proceedings and nothing substantial could be elicited during his cross-examination to demonstrate that the occurrence, as narrated by him, was improbable or inconsistent.

14. It is true that during cross-examination the appellant admitted that before filing of the claim application, he did not lodge any report with the Station Master, the RPF or the GRP. He also admitted that he did not know the identity of the persons who shifted him to the hospital and that no eyewitness to the occurrence had been examined before the Tribunal. These circumstances assume relevance while appreciating the evidence, however, they cannot be viewed in isolation.

15. The medical evidence on record assumes considerable significance in the facts of the present case. The discharge summary issued by Dr.*Ram Manohar Lohia* Hospital records that the appellant was admitted on 22.09.2017, barely two days after the alleged incident. More importantly, the history recorded at the time of admission specifically notes "fall from train on 20.09.2017". The said discharge summary further records that the appellant underwent multiple surgical procedures, including transtibial below-knee amputation of the left leg as well as disarticulation of all five toes of the right foot. The appellant remained hospitalized for an extended



period and ultimately came to be discharged only after undergoing repeated surgical interventions.

The disability certificate subsequently issued by Dr. *Ram Manohar Lohia* Hospital further certifies that the appellant suffered 68% permanent physical impairment and the injuries suffered by the appellant were thus not of a trivial nature but resulted in substantially affecting his mobility and earning capacity. The genuineness of these medical documents has not been disputed by the respondent nor has any evidence been led to suggest that the injuries were sustained in any different manner.

16. The Tribunal appears to have discarded the appellant's entire case primarily because no contemporaneous record regarding the occurrence was available with the Station Master, RPF or GRP. In the opinion of this Court, such an approach is not entirely justified. The Divisional Railway Manager's enquiry report merely records that no entry regarding the alleged incident could be traced in the records maintained by the Railway Administration or the GRP. The report does not positively conclude that the appellant had not travelled by train, nor does it record that the injuries had been sustained in any other incident. The enquiry, therefore, proceeds only on the basis of non-availability of official records and not on the basis of any affirmative evidence disproving the appellant's version.

17. Much emphasis was laid by the respondent on the fact that the claim application came to be filed on 05.10.2018, almost one year after the alleged incident, and that the complaints addressed to the Senior Superintendent of Police and the Railway Protection Force, *Lucknow* were also made at a later stage. There can be no quarrel with the proposition that the delay in reporting an occurrence is a relevant circumstance. However, the



explanation furnished by the appellant also cannot be ignored. The record shows that immediately after the occurrence he suffered catastrophic injuries, remained hospitalized for nearly two and a half months, underwent repeated surgeries resulting in amputation of his left leg and partial amputation of his right foot and thereafter continued treatment for permanent disability. Mere delay, in the absence of material indicating fabrication or false implication, cannot by itself be treated as sufficient to discard an otherwise consistent claim.

18. The Railways Act is a beneficial legislation enacted with the object of providing compensation to victims of railway accidents and claims arising thereunder are required to be examined on the touchstone of preponderance of probabilities and not by insisting upon proof of the nature expected in criminal proceedings. In the present case, viewed in the totality of the circumstances, this Court is satisfied that the appellant was a *bona fide* passenger and that the injuries were the result of an “untoward incident”.

19. Accordingly, the impugned judgment dated 26.03.2021 is set aside and the matter is remanded back to the Tribunal, which is requested to assess the amount of compensation payable to the appellants 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 17.08.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

JULY 28, 2026/na