



2026:DHC:7020



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

% Reserved on : 11.08.2026
Pronounced on : 21.08.2026
Uploaded on : 21.08.2026

+ **FAO 287/2018**

BHARAT & ANR.

.....Appellants

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

versus

UNION OF INDIA

.....Respondent

Through: Mr.Raj Kumar, CGSC

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 20.07.2016 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/100/2015.

2. The brief facts of the case, as set out before the Tribunal, are that on 08.09.2014, Sh. *Raj Kumar@ Randhir*(hereinafter referred to as “the deceased”), along with his brother, was travelling from *Bahadurgarh* to *NewDelhi*. It is the case of the appellants that the deceased had purchased a journey ticket for two persons and, while the



train was approaching *Sarai Rohilla* Railway Station, he fell from the running train and sustained grievous injuries and was removed to *Hindu Rao* Hospital, where he succumbed to his injuries.

3. Relying upon the non-recovery of a valid journey ticket, the testimony of AW-2/*Durga Prasad* and the material contained in the DRM report, the Tribunal dismissed the claim, holding that the deceased was neither a *bona fide* passenger nor was the incident an “untoward incident” under the Railways Act, 1989 (hereinafter referred to as “the Act”).

4. Learned counsel for the appellants contended that the deceased was a *bona fide* passenger holding a valid ticket, which was lost in the accident. Reliance was placed on “*Union of India v. Rina Devi*”¹, to argue that mere non-recovery of the ticket does not negate the *bona fide* status of the passenger. The appellants relied on the evidence of AW-2, police DDs, and the occurrence within railway premises to submit that the initial burden stood discharged. It was further submitted that the versions attributed to the Guard in the initial memo and his subsequent statements are inconsistent.

5. *Per contra*, learned counsel for the respondent supported the impugned judgment, submitting that the deceased person who was attempting to board the moving train had fallen due to his own negligence. Reliance was placed on the Guard’s memo, rough journal and Station Diary, which recorded that an unauthorised person/trespasser collided with or attempted to board the moving train due to his own negligence.

¹ (2019) 3 SCC 572



6. Insofar as the issue of *bona fide* travel is concerned, it is an admitted fact that no ticket was recovered from the person of the deceased. However, AW-2/Durga Prasad, who was admittedly travelling with the deceased, deposed that the deceased had purchased a valid ticket for two persons and that the ticket was kept in his shirt pocket.

As per the settled law, mere non-recovery of a ticket cannot, by itself, be treated as conclusive against the claim of *bonafide* passenger status. This principle was reiterated by the Supreme Court in “Lata v. Union of India”², wherein it was further clarified that the initial burden of the claimant can be discharged by way of an affidavit, whereafter the burden shifts upon the Railways to disprove the same.

Applying the aforesaid principle to the facts of the present case, AW-2/Durga Prasad (brother of the deceased), successfully discharged the initial burden through his affidavit. The Tribunal, however, discarded the testimony of AW-2 primarily on the ground that he was not an eyewitness to the purchase of the ticket and that his conduct in leaving his injured brother with the Guard to make a telephone call was considered unusual. These circumstances may affect the weight to be attached to his testimony, but cannot, by themselves, negate his specific account of travelling with the deceased. Thus, while the evidence of AW-2 has to be considered with due caution, the initial burden cast on the appellants stands discharged.

7. The next issue that arises for consideration is whether the deceased died in an “untoward incident” within the meaning of the

² 2026 SCC OnLine SC 1350



Act.

8. The contemporaneous records, including the DD entries, Station Master's memo, MLC and death report, consistently establish that the deceased was injured in a railway accident and was immediately attended to by Sh. *Kanhaiya Lal*/Guard.

9. The Tribunal placed undue reliance on the varying descriptions contained in the Guard's records, namely, "jumped from the running train", "trespasser" and "trying to board the running train". The Guard's initial memo refers to an unauthorised person having been struck with the coach, while the Rough Journal describes him as a "trespasser". In his subsequent statement, however, the Guard stated that the person was trying to board the running train and in the process, fell. These entries, far from conclusively establishing a case of trespass or deliberate jumping, themselves demonstrate uncertainty regarding the precise manner of occurrence. Significantly, the Guard stated that he had made the memo in haste and subsequently clarified that the deceased was trying to board the running train, could not board it and fell down. More importantly, the Guard was not examined before the Tribunal and his statement forms part of the DRM Report. His version, therefore, cannot be treated as conclusive proof of the manner in which the accident occurred, particularly when there is no independent eyewitness establishing that the deceased was deliberately trespassing upon the track or intentionally jumping from the train.

10. Further, the respondents have failed to place on record any cogent evidence establishing that the deceased's injuries were caused in circumstances falling within any of the statutory exceptions under



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Section 124-A of the Act.

11. On a cumulative consideration of the contemporaneous records and the evidence on record, this Court is satisfied that the deceased sustained injuries in an accidental fall from the train, which constitutes an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of the Act.

12. In view of the above, the impugned judgment is set aside and the matter is remanded back to the Tribunal, which is requested to assess the amount of compensation payable to the appellant 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 11.09.2026.

13. The appeal is allowed in the above terms.

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

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 21, 2026

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