



2026:DHC:7151



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

% Reserved on : 12.08.2026
Pronounced on : 24.08.2026
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+ **FAO 211/2024**

JAWAHAR LAL & ANR.Appellants
Through: Mr. Rajan Sood, Ms. Ashima
Sood and Ms. Megha Sood,
Advocates
versus
UNION OF INDIARespondent
Through: Mr. Theepa Murugesan, SPC
with Mr. Kamaldeep, GP and
Mr. Yogesh Kr. Dubey,
Advocate

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 24.02.2023 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/ DLI/285/2019.
2. The case of the appellants, in brief, is that one *Lalchand* (hereinafter referred to as the “deceased”), on 09.06.2019, along with other persons, was travelling from *Kanpur* Central to *Surat* by Train No. 19038(*Awadh Assam* Express). It is averred that the deceased was travelling on strength of a valid journey ticket and during the course of the travel, when the train stopped at *Balrai* Railway Station on



10.06.2019, the deceased and the other persons were made to deboard from the off-side of the train by the TTE, whereafter they fell on the wrong side and were run over by *Rajdhani* Express, which was passing through the adjacent track.

3. It may be noted that the aforesaid incident gave rise to four separate claim applications in respect of the four deceased persons. Since all the claims arose out of the same incident and involved common questions of fact and evidence, the same were consolidated and heard together, with the present case being treated as the leading case.

4. Although the Tribunal, after considering the evidence led by the parties, found that the deceased were *bona fide* passengers, however, the claim was ultimately dismissed on the ground that their death was not the result of an “untoward incident” contemplated under Section 123(c) of the Railways Act, 1989 (hereinafter referred to as the “Act”).

5. Learned counsel for the appellants submitted that the evidence of AW-2/*Neelu Devi* and AW-3/*Rohit*, who were travelling in the same train, has not been properly appreciated. It is contended that merely because the deceased was ultimately found on the track side and was run over by Train No. 12313, *Rajdhani* Express, the incident could not have been treated as falling outside Section 123(c) of the Act. Reliance has been placed upon the decisions of the Supreme Court in “*Union of India v. Rina Devi*”¹ and “*Union of India v. Prabhakaran Vijaya Kumar*”².

¹ (2019) 3 SCC 572

² (2008) 9 SCC 527



6. Learned counsel for the respondent, on the other hand, supports the impugned judgment. It is submitted that the deceased and the other passengers had got down from the side opposite to the platform at *Balrai* Station and had thereafter come onto the railway track. Learned counsel relies upon the *panchnama*, the statements recorded during the DRM enquiry and the statement of the Loco Pilot of Train No. 12313, to submit that the deceased was seen walking along the railway track before being run over by *Rajdhani* Express.

7. At the outset, it is not in dispute that the deceased was a *bona fide* passenger. The Tribunal itself has returned a finding in favour of the claimants on this aspect and the record also establishes that the deceased had purchased a valid ticket for travelling from *Kanpur* to *Surat* and was travelling in *AwadhAssam* Express. The said finding has not been challenged by the respondent and has, therefore, attained finality.

8. The controversy in the present appeal is, therefore, confined to the issue as to whether the appellant died in an “untoward incident” within the meaning of the Act.

9. The material on record shows that Train No.19038, *Awadh Assam Express*, was standing at *Balrai* Station when Train No.12313, *Rajdhani Express*, passed through the station and the deceased was run over. The DRM report proceeds on the basis that the deceased had deboarded from the off-side of Train No.19038 and were “walking” along the track. However, the circumstances preceding their coming out of the train also require consideration. The case of the appellants is that the TTE had pushed the passengers to move/change their coach,



pursuant to which they were forced to deboard the train. Neither RW-1/Sh. *Dharmendra Kumar Tripathi*, the Loco Pilot of Train No.12313, nor CW-1/*Sunil Kumar*, the TTE, has stated that he had witnessed the deceased “voluntarily deboarding” the train and thereafter proceeding towards the track. Thus, the conclusion in the DRM report regarding the manner in which the deceased came onto the track cannot be treated as an established fact merely on the basis of the subsequent position of the body of the deceased persons.

10. The Tribunal has further relied upon the statement of AW-2/*Neelu Devi* that the TTE had pushed only *Pintu*, whereas the other persons had got down themselves. However, AW-3/*Rohit* has stated that the passengers were pushed out by the TTE. The evidence, therefore, contains some variation regarding the precise manner in which the passengers came out of the train. This variation, however, has to be considered in the backdrop of the appellants’ case that the passengers had been asked to move/change their coach.

11. The inconsistencies in the evidence may create doubt regarding the precise manner in which the passengers came out of the train, but cannot be used to conclusively hold that the deceased had “voluntarily gone upon” the track. In this regard, reference is made to the decision of the *Punjab and Haryana High Court* in “*Gyasu And Anr. v. Divisonal Railway Manager And Anr.*” wherein, while considering the contention of the Railways that the deceased had deboarded from the wrong side and thereafter crossed the railway track, this Court observed as under:



“The deceased could de-board on alleged wrong side of the platform only if there was an excess to de-board the train from the other side. Even if the deceased was negligent in de- boarding the train from wrong side or got entangled in railway accident while crossing the track, it is difficult to accept contention of the respondents that she died or suffered injuries due to her own criminal act.”

12. In the facts of the present case, therefore, the fact that the deceased was run over by Train No.12313 is established, whereas the further conclusion that he had “voluntarily deboarded” from the off-side and thereafter walked along the track is not established by cogent evidence. The finding of the Tribunal is accordingly set aside and the death of the deceased is held to have occurred in an “untoward incident” within the meaning of Section 123(c) of the Act.

13. 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 16.09.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 24, 2026/na