



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

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+ **FAO 223/2023**

SMT. ARCHANA PANDEYAppellants
Through: Mr. Munish Kumar Singh, Advocate
versus

UNION OF INDIARespondent
Through: Ms. Shubhra Parashar, Sr. Panel
Counsel with Mr. V.P.S. Charak and
Mr. Rahul Kumar, Advocates

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 17.05.2023 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Applications No. OA/II(u)/DLI/373/2020 and OA/II(u)/DLI/374/2020, titled as “Smt. Archana Pandey vs. Union Of India”.
2. The appellants, who were the claimants before the Tribunal OA/II(u)/DLI/374/2020, are the family members of one *Sh. Bhanu Prakash Pandey* (hereinafter referred to as the “deceased no. 1”). Appellant no. 1, *Smt. Archana Pandey* is the wife of deceased no. 1. The appellant



No.1 in OA/II(u)/DLI/373/2020, is the mother of one *Vanshika* (hereinafter referred to as the “deceased no. 2”)/daughter of deceased no. 1.

3. The brief facts of the case, as set out before the Tribunal, are that deceased no. 1 and 2 were travelling together from *Fatehgarh* to *Shahdaraby* Train No. 14723(*Kalindi Express*). It was the case of the appellants that both the deceased, while they came near the door of the compartment to alight, accidentally fell from the train due to a sudden jerk, sustained fatal injuries and died.

4. *Vide* the impugned judgment, the Tribunal held that both deceased no. 1 and 2 were *bona fide* passengers, however, dismissed the claim application on the ground that the incident did not come within the ambit of an “untoward incident” as defined under the Railways Act, 1989 (hereinafter referred to as the “Act”). The Tribunal concluded that their death occurred on account of them having allegedly run over by Express Train No. 15623 while they were crossing the railway track after disembarking from the off side of the train.

5. Learned counsel for the appellant assails the impugned judgment by contending that it is the case of the appellant that AW-2, Smt. *Mamta Pandey*, who is an eyewitness to the alleged incident, has specifically deposed that both deceased no. 1 and 2 were disembarking from the platform side, however due to the blocked exit they were compelled to alight from the off-side, whereupon the train suddenly started and they fell down and died.

Furthermore, AW-1 Smt. *Archana Pandey*, in her affidavit, has likewise denied that either of the deceased were crossing the tracks. Additionally, the memo issued by the Dy. Station Superintendent, *Delhi-*



Shahdara merely records that a man and a woman were run over on platform No. 3 without recording that they were crossing the line.

6. *Per contra*, learned counsel for the respondent supports the impugned judgment and submits that the Tribunal has rightly rejected the claim in view of the material on record. It was contended that after completing their journey, both the deceased alighted from Train No. 14723 on Platform No. 4 from the off-side, and instead of using the Foot Over Bridge, proceeded to cross the railway tracks towards Platform No. 3. In the process they came in the path of Train No. 15623 and were run over.

Learned counsel placed reliance on the Station Master's memo and argued that the act of illegally crossing the rail tracks, and being run over as a consequence, was a deliberate act amounting to a criminal act committed solely on account of their own gross negligence and carelessness. Further reliance is placed on the post-mortem report to argue that the injuries sustained are inconsistent with an accidental fall and rather points to both the deceased persons being run-over.

7. This Court has heard learned counsels for the parties and perused the material placed on record.

8. Insofar as the status of both deceased persons being a *bona fide* passenger is concerned, the same has been answered in the affirmative by the Tribunal since the ticket bearing no. 2422785667 was verified and deceased no.1 was confirmed to be travelling on berth no.1 in coach 3 of Train No. 147213 (*Kalindi Express*), running from *Fatehgarh* to *Delhi-Shahdara*. Even though the journey ticket of deceased no.2 was stated to be lost, the Tribunal decided the issue of *bonafide* in their favour, by relying



upon the affidavit of AW-1. The aforesaid finding has not been assailed by the respondent and has, therefore, attained finality.

9. In view of the aforesaid, the sole issue which arises for consideration is whether the death of the deceased persons occurred in an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of the Act.

10. The Tribunal answered the issue of “untoward incident” against the appellants primarily on the basis that the bodies of the deceased were recovered on the platform side of line No. 3 at Km. 6/6-6/08, and the nature of the injuries were held to be consistent with a case of run-over. Proceeding on the said premise, the Tribunal concluded that the deceased had crossed the railway tracks after disembarking from the train and were run-over by another train.

11. A perusal of the material placed on record would show that the appellant has consistently maintained the version that both the deceased persons accidentally fell from the off-side of *Kalindi Express* No. 147213 when trying to disembark. In support of the said plea, the affidavit of Smt. *Mamta Pandey* (AW-2), an eyewitness, assumes significance, wherein she has deposed that although the deceased initially attempted to disembark from the platform side, however, due to the blocked exit they were compelled to alight from the off side, as a result whereof, they fell from the train.

12. During her cross-examination, AW-2 stated that although the deceased were distantly related to her, she was unaware of their identity at the time of the occurrence and came to know about the same only after reaching home. Nothing material has been elicited in her cross-examination to discredit her presence at the spot or to show that she had not witnessed the



occurrence. Merely because she was subsequently found to be distantly related to the deceased would not, by itself, be sufficient to discard her testimony.

13. It is well-settled that an accidental falling of a passenger from a train, either while boarding or alighting, is an “untoward incident” within the meaning of Section 123(c) read with Section 124-A of the Act. Once the occurrence is shown to be in the course of train movement on railway premises and there is no proof of any of the statutory exceptions, the liability of the railways becomes strict in nature, and the claim cannot be defeated on mere speculative reasoning. (Ref: “Union of India vs. Prabhakaran Vijaya Kumar¹”)

14. It is also relevant to note that the Station Master’s Memo merely records that one male and one female had been run over near Platform No. 3 on the basis of information received from the Loco Pilot and the Guard of Train No. 15623. The said document, by itself, neither records that the deceased were crossing the railway tracks nor attributes any criminal or deliberate act to them. Apart from the said memo, no independent eye-witness has been examined by the respondent to establish that the deceased had crossed the railway tracks after disembarking from *Kalindi Express*.

15. At this stage, it is apposite to note that the Act is a beneficial piece of legislation and should receive a liberal and wider interpretation instead of a narrow and technical one. The liability under Section 124A is strict, and contributory negligence on the part of the victim is not an acceptable defence Prabhakaran Vijaya Kumar (supra). To deny compensation, as per the statutory scheme, the act in question must strictly fall under the ambit of

¹(2008) 9 SCC 527



a “self-inflicted injury” or a “criminal act”, which requires a much higher standard of proof than what has been proved by the respondent in the present case.

16. The Tribunal has also placed considerable reliance upon the nature of the injuries recorded in the post-mortem report, specifically the multiple crush injuries, fractures and multiple wounds and interpreted these as proof that the deceased came in the grip of Express Train No. 15623 while trespassing on the railway track, holding that such injuries could only be sustained if the deceased was run over.

The post-mortem reports merely describe the injuries sustained by the deceased and do not record the manner in which the injuries were caused. In the absence of any medical opinion ruling out the possibility of an accidental fall from a moving train, the Tribunal was not justified in treating the nature of injuries, by itself, as conclusive proof of a run-over case.

17. A gainful reference in this regard may be made to the decision of the Coordinate Bench of this Court in “Rajpati Vs. Union of India”², wherein it was observed as hereunder:

“7. No doubt, the body is found in a cut up position, however, it is not inconceivable that while falling from the train, the deceased could have got entangled in the steps and the wheels of the same train in which he was travelling and surely which type of incidents are not unknown. Therefore, the Tribunal cannot only on the ground that the body of the deceased was in a cut up condition hold that the case was a case of run over and not of falling from a train.”

18. In view of the aforesaid, this Court is of the view that the Tribunal was

² 2014 SCC Online Del 2540



not justified in concluding, solely on the basis of the nature of injuries, that the deceased had been run over while crossing the railway tracks. The said finding is not supported by any direct evidence and rests primarily on an inference drawn from the medical record. In proceedings under the Act, such an inference, in the absence of cogent supporting material, cannot be treated as conclusive so as to defeat a claim founded upon an accidental fall from a train.

19. In light of the foregoing discussion, this Court finds that the version put forth by the appellants, that the deceased accidentally fell while attempting to deboard the train being consistent with the material on record, appears more probable and merits acceptance. The said factual position, therefore, squarely brings the case within the ambit of an “untoward incident” as defined under the Act.

20. Accordingly, 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 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 19.08.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 03, 2026

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