



2026:DHC:7897



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

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CNR No. DLHC010414002025

+ **FAO 175/2025**

TEK CHAND & ANR.Appellants
Through: Mr. Rajan Sood, Ms. Ashima
Sood and Ms. Megha Sood,
Advocates

versus

UNION OF INDIARespondent
Through: Mr. Ashish K. Dixit, CGSC
with Mr. Umar Hashmi,
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 15.03.2024 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(U)/DLI/194/2023, titled as "Sh. Tek Chand &Anr. vs. Union of India".

2. Briefly stated, the claim application came to be filed in the context of the death of one *Himanshu Sharma* (hereinafter referred to as the "deceased"), who, as per the case set up by the appellants before



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the Tribunal, had left his native village on 19.06.2023 to travel from *Gajraula* to *Dehradun* to look for some employment. According to the appellants, the deceased telephonically informed his father on 20.06.2023 that no suitable work had been arranged at *Dehradun* and that he was returning home. It was pleaded that while travelling back from *Dehradun* towards *Gajraula* by train No.14042 (*Mussoorie Express*), he accidentally fell from the running train between *Fazalpur* and *Muzzampur* Railway Stations owing to a sudden jerk and rush inside the compartment, resulting in fatal injuries.

It was further pleaded that during the inquest proceedings, one journey ticket bearing No.63987978 for his onward travel from *Gajraula* to *Dehradun* dated 19.06.2023, a mobile phone and cash were recovered from his person. The appellants asserted that although the return journey ticket could not be recovered, the deceased was travelling as a *bona fide* passenger and his death occurred in an “untoward incident” within the meaning of the Railways Act, 1989 (hereinafter referred to as the “Act”).

3. Upon appreciation of the evidence, the Tribunal dismissed the claim and observed that although an onward journey ticket had been recovered, no return journey ticket was found from the person of the deceased. The Tribunal further noticed that there was no eye witness to establish accidental fall from a train and the DRM report also did not support the appellants’ version. Consequently, the Tribunal held that neither the status of the deceased as a *bona fide* passenger nor the occurrence of an “untoward incident” stood proved.

4. Assailing the impugned judgment, learned counsel appearing for



the appellants submits that the Tribunal has treated the non-recovery of the return journey ticket as conclusive against the appellants, overlooking the settled legal position that mere absence of a ticket does not by itself disprove the status of a *bona fide* passenger (Ref: Union of India v. Rina Devi¹). Learned counsel submits that the evidence on record establishes that the deceased had travelled from *Gajraula* to *Dehradun* on 19.06.2023, whereafter he informed his father that he was returning as no employment had been arranged. It is argued that the recovery of the onward journey ticket from the person of the deceased lends assurance to this version, and the surrounding circumstances support the version that the deceased was returning by train when the incident occurred.

It is further submitted that the DRM report merely records that no valid ticket relating to the date of occurrence was recovered and proceeds to conclude that the journey could not be established. It is argued that once the appellants discharged their initial burden by leading evidence regarding the journey and the attendant circumstances, the burden shifted upon the Railways to disprove the claim, which has not been done in the present case.

5. *Per contra*, learned counsel appearing for the respondent contended that the only ticket recovered from the deceased pertained to the onward journey undertaken on 19.06.2023 and there is no documentary evidence regarding the alleged return journey on 20.06.2023. It is further submitted that there is no eye witness to the occurrence, the body was found lying between the railway tracks, and

¹(2019) 3 SCC 572



the cause of death could not be linked with any accidental fall from a train. On these premises, it is urged that the Tribunal rightly dismissed the claim petition.

6. Having heard learned counsel for the parties and perused the record, this Court is of the considered view that the controversy essentially gives rise to two questions, first, whether the material on record establishes that the deceased was a *bona fide* passenger at the time of the occurrence and second, whether the death of the deceased occurred on account of an “untoward incident” within the meaning of the Act.

7. Since the issue of the deceased’s *bona fide* travel forms the very foundation of the claim, it would be appropriate to examine the said aspect in the first instance.

8. A careful perusal of the record shows that the evidence available in the present case extends considerably beyond the mere question of recovery of a ticket. The recovery memo prepared during the inquest records that, besides a mobile phone and cash, one railway journey ticket bearing No.63987978 for travel from *Gajraula* to *Dehradun* dated 19.06.2023 was recovered from the person of the deceased. The same ticket also finds mention in the *jamatalashi* proceedings, the investigation papers and the DRM report. Thus, the fact that the deceased had undertaken the onward journey from *Gajraula* to *Dehradun* immediately preceding the occurrence is not in dispute.

9. Equally significant is the evidence led by the father of the deceased, Sh. *Tek Chand* (AW-1). Although AW-1 admittedly was not an eye witness to the occurrence, he has consistently stated that the



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deceased telephonically informed him on 20.06.2023 that no work had been arranged at *Dehradun* and that he was returning home. There is no cogent material put forward by the respondent so as to show why this statement should be discarded or suggested any alternative explanation regarding the presence of the deceased near the railway track between *Fazalpur* and *Muzzampur* in the early hours of 21.06.2023. Significantly, the respondent has neither disputed that the deceased had travelled to Dehradun on 19.06.2023 nor produced any material to show that he had not commenced his return journey therefrom.

10. In this regard, a gainful reference may be made to the decision of the Supreme Court in *Rina Devi* (supra) as well as the recent ruling in “*Lata v. Union of India*”², wherein it was reiterated that the claimant is only required to discharge the initial burden by placing the foundational facts on record. In the present case, the appellants have discharged the said burden by producing the recovered onward journey ticket, the testimony of AW-1 regarding the return journey and the official records prepared during the inquest. Beyond pointing to the non-recovery of the return journey ticket, the respondent has not produced any evidence to rebut the appellants’ case.

Tested on the aforesaid principles, this Court finds that the Tribunal proceeded on the premise that since the return journey ticket was not recovered from the person of the deceased, the appellants had failed to establish that the deceased was a *bona fide* passenger. Such an approach overlooks the law laid down in the aforesaid decisions

²2026 SCC OnLine 1350



and ignores the attendant circumstances. The evidence led by the appellants sufficiently supports that the deceased had undertaken the return journey from *Dehradun* and was travelling by train at the relevant time. The respondent having failed to rebut the said evidence, this Court is satisfied that the deceased has been established to be a *bona fide* passenger.

11. Having held that the deceased was a *bona fide* passenger, the next question which arises for consideration is whether his death occurred in an “untoward incident” within the meaning of the Act.

12. According to the Tribunal, while the body of the deceased was first noticed by the Loco Pilot of Train No.14119 at about 01:35 hours, Train No.14042 (*Mussoorie Express*), by which the deceased was alleged to have been travelling, crossed the said location only at 01:49 hours. Proceeding on the said premise, the Tribunal held that the version put forth by the appellants was improbable.

13. Pertinently, while relying upon the TSR, the Tribunal has overlooked the complete movement of Train No.14042. The TSR records that the train reached *Muzzampur* at 00:50 hours and *Fazalpur* at 00:53 hours and thereafter proceeded to *Najibabad*, where it reached at 01:02 hours. After its scheduled halt, the train departed from *Najibabad* at 01:32 hours and commenced its return journey towards *Fazalpur* and *Muzzampur*. It reached *Fazalpur* at 01:40 hours and thereafter *Muzzampur* at 01:51 hours. Thus, the train was undertaking a “return loop”, an aspect which has not been considered by the Tribunal while appreciating the TSR.

14. Notably, the case of the appellants is that the deceased was



returning from *Dehradun*. The movement of Train No.14042 as recorded in the TSR shows that after reaching *Najibabad*, the train returned towards *Fazalpur* and *Muzzampur*. The Tribunal, however, has considered only the fact that the train crossed the concerned location at 01:49 hours, after the dead body had been noticed at about 01:35 hours, without taking into account its earlier movement through the same stations between 00:50 and 00:53 hours. The TSR, therefore, could not have been read in isolation to conclude that the deceased could not have fallen from Train No.14042. It is pertinent to note that even the respondent, in its affidavit filed before this Court, has clarified that Train No.14042, after reaching *Najibabad*, commenced its return journey at 01:32 hours towards *Fazalpur* and thereafter *Muzzampur*.

15. The aforesaid aspect assumes significance as the return movement of Train No.14042 provides the missing link in the sequence of events relied upon by the Tribunal. The possibility of the deceased having fallen during the earlier movement of the train towards *Najibabad*, followed by the body being noticed at 01:35 hours, was not duly considered and examined. The subsequent passage of the same train at 01:49 hours, on its return loop, therefore, could not by itself be treated as disproving the appellants' case.

16. It is well settled that the provisions of the Act are part of a beneficial legislation. In such matters, compensation cannot be denied merely because the timings reflected in the TSR do not exactly correspond with the appellants' version. The movement of trains and the time at which the body is first noticed may not always coincide



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with the actual time of the occurrence. In the absence of any positive evidence to the contrary, such discrepancy by itself cannot defeat a genuine claim.

17. 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 08.10.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 15, 2026

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