



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

+ **FAO 46/2022**

Reserved on: 22.03.2023
Pronounced on: 02.06.2023

IN THE MATTER OF:

SITA DEVI AND ORS. Appellants
Through: Ms.Vijay Laxmi, Advocate

versus

UNION OF INDIA Respondent
Through: Ms.Ritu Reniwal, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J.

1. The present appeal has been preferred under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as the 'Act') passed by the Railway Claims Tribunal, Principal Bench in OA/II(u)/DLI/254/2019 against the order dated 10.02.2021 whereby the claim application filed by the appellants was dismissed.

2. The brief facts, as culled out from the records, are that in the application filed before the Tribunal it was claimed that Vinod Kumar i.e., deceased undertook a train journey on 12.06.2017 from Shahdara to Faridabad by a local train and when the train reached at KM 1514/13-11 JNC Yard between Faridabad and Tughlaqabad Station, the deceased fell down from the train on account of sudden jerk and push of the



passengers and died at the spot. The journey ticket alongwith other articles of the deceased including his bag were also lost.

3. Learned counsel for the appellants contended that the Tribunal failed to appreciate the contents of the final report by SHO P.S. GRP, Faridabad where it has been stated that from enquiry till then, circumstances at the spot, result of post-mortem, verification by SHO and statements of witnesses, it was concluded that death had occurred due to fall from the moving train. It is further submitted that mere non-recovery of journey ticket would not *ipso facto* result in dismissal of the claim application.

4. *Per contra*, learned counsel for the respondent has defended the impugned judgment and prayed for dismissal of the present appeal.

5. A perusal of the record would show that the first information on the incident was received in the form of memo of Station Master of Faridabad Railway Station at about 9:00 am on 12.06.2017. It mentions about the dead body lying at KM 1514/13-11 and on receipt of information, ASI Dharamvir Singh, RPF, Faridabad visited the spot and saw the dead body lying outside the UP line track.

6. Before proceeding further, this Court deems it expedient to refer to a decision of the Supreme Court in Union of India v. Rina Devi reported as **(2019) 3 SCC 572**. The relevant extract of the decision is reproduced as under:-

“29. We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will



be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.”

(emphasis added)

7. A perusal of the testimony of Ramkeshwar Ram would show that he has clearly stated that the deceased had visited his brother-in-law on 11.06.2017 in Taharpur, Shadara, Delhi. The deceased was carrying one bag of clothes in the morning of 12.06.2017 and the witness had purchased a ticket from Shahdara Railway Station and made the deceased sit in the local train for Faridabad. The statement of Ramkeshwar Ram was disbelieved by the Tribunal on the ground that in the enquiry during the DRM's Report, he had not stated so. It is pertinent to note that in the cross-examination, the witness denied giving any statement to the police. In view of the aforesaid, this Court is of the opinion that the appellants were successful in discharging the initial burden cast upon them.

8. Insofar as whether the incident is covered under the definition of 'untoward incident' as defined under Section 123(c) of the Railways Act, 1989, it is seen that the dead body was discovered lying on the railway track for which deceased had undertaken the train journey. The DRM Report was filed after nearly 14 months of the incident and thus need not be taken into consideration especially in view of the final report submitted by the SHO, as noted hereinabove. In this regard, this Court deems it expedient to refer to a decision of Co-ordinate Bench of this



Court in Bhola v. Union of India reported as **2018 SCC OnLine Del 13486**.

9. Accordingly, the deceased is held to be a *bona fide* passenger and the incident to be an 'untoward incident'. Consequently, the appeal is allowed and the impugned order is set aside.

10. The matter is remanded back to the Tribunal for awarding the amount of compensation in terms of the Act and for which purpose the matter shall be listed at the first instance before the Tribunal on 10.07.2023. Let the compensation amount be paid to the appellants/claimants within two weeks thereafter.

11. The appeal is disposed of in the above terms.

12. A copy of this judgment be communicated to the concerned Tribunal for information.

(**MANOJ KUMAR OHRI**)
JUDGE

JUNE 02, 2023/v

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