



2026:DHC:9043



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

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CNR No. DLHC010409172026

+ **FAO 277/2026**

GHANSHYAM & ORS.Appellants
Through: Mr.Kshitiz Jain and
Ms.Alankrita Sinha, Advocates

versus

UNION OF INDIARespondent
Through: Mr. Vishwa Pal Singh, CGSC
with Ms. Akanksha Suman, GP
and Mr. Abhijit Singh,
Advocate for UOI

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellants seek to assail the judgment dated 12.06.2026 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/DLI/635/2026, whereby their claim for compensation arising out of the death of one *Rohit Kumar* (hereinafter referred to as the "deceased") came to be dismissed.
2. The claim application came to be filed in respect of an incident



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dated 18.11.2025, in which the deceased, who was travelling from *Babrula* to *Aligarh* by Train No. 54354 along with three other persons, namely, *Rakesh*, *Bhola Singh* and *Brijesh Kumar*, on a common second-class journey ticket bearing No. AAC-92096816, accidentally fell from the train and lost his life. His body was found near kilometre 112/15 between *Babrula* and *Rajghat*. The appellants maintained that the ticket was subsequently found in the back pocket of the deceased's trousers during the post-mortem proceedings and was handed over to the family.

3. The Tribunal dismissed the claim application, holding that the appellants had failed to establish that the deceased was a *bona fide* passenger. The journey ticket was disbelieved on the ground that it had not been recovered during the *jamatalashi* but had been produced with the claim application. Further, relying upon the location of the body and the nature of the injuries, the Tribunal inferred that the deceased had been crossing the railway track and that his death did not result from an "untoward incident" within the meaning of the Railways Act, 1989 (hereinafter referred to as the "Act").

4. Learned counsel for the appellants contended that the father of the deceased, categorically deposed that the journey ticket was recovered from the deceased's clothing during the post-mortem proceedings and was handed over to him. It is further submitted that the testimony of *Rakesh/AW-2*, who was travelling with the deceased, could not have been discarded merely on account of his association with the deceased or the absence of his name in the initial record. Learned counsel submits that the inference of track-crossing drawn by



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the Tribunal is not based on any cogent evidence, as neither the location of the body nor the injuries recorded in the post-mortem report establish that the deceased was crossing the track.

5. Learned counsel for the respondent, on the other hand, defends the impugned order. It is contended that the journey ticket was not recovered during the *jamatalashi* and was produced only along with the claim application. Although the ticket appears to have been subsequently verified, the respondent disputes its genuineness and evidentiary value on the ground that it was not recovered at the relevant time or disclosed to the RPF or railway officials contemporaneously, and its belated production casts doubt on the appellants' case. Learned counsel further submits that the testimony of AW-2 was rightly rejected and that the location of the body and the extensive injuries were sufficient to support the findings returned by the Tribunal.

6. Having considered the submissions advanced on behalf of the parties and perused the record, the questions which arise for consideration are whether the deceased was a *bona fide* passenger and whether his death resulted from an "untoward incident" within the meaning of Section 123(c) of the Act.

7. As regards the first issue, the principles governing the burden of proof in claims of this nature stand settled by the decision of the Supreme Court in "Union of India v. Rina Devi"¹ and the same principle has recently been reiterated in "Lata v. Union of India"². The

¹ (2019) 3 SCC 572

² 2026 SCC OnLine SC 1350



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evidence led by the appellants has to be considered as a whole as the mere absence of a ticket from the initial recovery proceedings cannot, by itself, be treated as conclusive against them. The approach must also be informed by the beneficial nature of the statutory remedy.

In the present case, the father of the deceased, who was examined as AW-1, specifically deposed that the deceased was travelling after purchasing a valid journey ticket and the said ticket was found in the back pocket of the deceased's trousers during the post-mortem proceedings and was thereafter handed over to him. The fact that the ticket was not mentioned in the *jamatalashi* is a circumstance which calls for consideration, but it does not, without more, discredit the explanation furnished by AW-1. Significantly, the respondent's own stand is that the ticket appears to have been subsequently verified, though its genuineness and evidentiary value are disputed on account of the circumstances in which it was produced. The subsequent production of the ticket, therefore, had to be assessed alongside the testimony of AW-1 and the remaining evidence.

8. The testimony of AW-2/Rakesh has been assailed on the ground that his name did not figure in the initial record and that he was associated with the deceased. These circumstances may be considered while assessing his testimony, but they do not, by themselves, render the entire claim unreliable. Even if his statement regarding the precise manner in which the deceased fell is not accepted, the evidence of AW-1 and the other circumstances on record are sufficient to accord the status of a *bona fide* passenger to the deceased.



9. The next issue concerns the nature of the incident. Section 123(c) of the Act includes the accidental falling of a passenger from a train carrying passengers within the expression “untoward incident”. The appellants are required to establish their case on the touchstone of preponderance of probabilities. At the same time, the precise manner in which an accident occurred may not always be capable of being established by direct evidence. In “Union of India v. Prabhakaran Vijaya Kumar”³, the Supreme Court emphasised the beneficial object of the statutory scheme and the need to approach such claims accordingly.

10. In the present case, the Tribunal drew an inference of track-crossing primarily from the fact that the body was found in the middle of the railway track and the deceased had suffered extensive crush injuries. These circumstances form part of the evidence, but they do not, on their own, “establish” that the deceased was crossing the track. In the absence of other cogent material, such as any statement of the loco-pilot or any other eye witness showing that the deceased was trespassing upon or crossing the track, the inference drawn by the learned Tribunal remains speculative.

11. A similar issue came up for consideration before this Court in “Anita Devi v. Union of India”⁴, wherein this Court held that the location of a body and the nature of the injuries cannot, in themselves, conclusively establish that the deceased had been crossing the railway track. The circumstances have to be considered as a whole, and the

³(2008) 9 SCC 527

⁴FAO 15/2016



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possibility of an accidental fall cannot be ruled out merely on the basis of an assumption as to how the body came to be found at that location. The same approach was adopted by this Court in “Vidhya Ram v. Union of India”⁵. The absence of direct evidence regarding the precise manner of the incident does not, by itself, justify drawing an adverse inference against the claimants. Where the material on record does not establish track-crossing or any other circumstance excluding an accidental fall, the claim has to be examined on the basis of the probabilities arising from the evidence, rather than an assumed sequence of events.

12. Applying the aforesaid principles to the facts of the present case, the finding that the deceased was crossing the railway track is not supported by any independent evidence establishing such conduct. The location of the body and the injuries sustained by the deceased may be consistent with more than one possible sequence of events. They do not, without further evidence, establish that the deceased was crossing the track or that his death occurred in circumstances excluding an accidental fall from the train.

13. In view of the above discussion, this Court finds that the impugned order proceeds on a restrictive appreciation of the evidence. The absence of the ticket from the *jamatalashi*, particularly when the ticket was subsequently verified, required consideration alongside the explanation furnished by AW-1. Likewise, the rejection of AW-2’s testimony did not, by itself, establish that the deceased was crossing the track.

⁵FAO 11/2024



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14. 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 12.01.2027.

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

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

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 12, 2026
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