



2026:DHC:8298



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

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CNR No. DLHC010345482022

+ **FAO 235/2022**

SMT. POONAM & ORS.Appellants
Through: Mr.RajanSood, Ms. Ashima
Sood and Ms. MeghaSood,
Advocates

versus

UNION OF INDIARespondent
Through: Mr. Vedansh Anand, SPC with
Mr. Kush Garg, 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 07.02.2022 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/GZB/503/2017, titled as "Smt. Poonam & Ors. vs. Union of India".

2. Briefly stated, on 03.10.2017, one *Yogesh Kumar* (hereinafter referred to as the "deceased") was stated to be travelling from *Sasni* to *Aligarh* by train. The case of the appellants was that the train was



overcrowded and, when it commenced its journey from *Sasni* Railway Station, the deceased fell from the train on account of a push by a co-passenger and a sudden jerk, resulting in his death. The appellants claimed that the journey ticket was lost in the occurrence.

3. Learned counsel for the appellants submits that the Tribunal erred in treating the non-recovery of the journey ticket as determinative of the question of bona fide passenger status. Reliance is placed on the decision of the Supreme Court in “*Union of India v. Rina Devi*”¹, to contend that the initial burden on the claimant is not onerous and that mere non-recovery of a ticket, by itself, cannot be made the basis for rejecting the claim. It is further submitted that there is no eyewitness to the occurrence and that neither the Loco Pilot nor the Guard has been examined to establish the alternative theory that the deceased was run over while walking on the railway track. It is also submitted that the nature of the injuries cannot, in the absence of other evidence, conclusively establish that the deceased was essentially run over.

4. Learned counsel for the respondent, on the other hand, supports the impugned judgment. It is submitted that no journey ticket was recovered from the deceased and that the appellant admittedly had no personal knowledge of the deceased having purchased a ticket, boarded the train or fallen there from. It is further submitted that the deceased’s body was found near the railway line and that the nature of injuries, coupled with the absence of any particulars of the train, did not establish that the deceased had fallen from a passenger train. The

¹(2019) 3 SCC 572



finding of the Tribunal that the deceased was not proved to be a *bona fide* passenger and that the occurrence did not constitute an “untoward incident” does not require any interference.

5. After hearing the contentions raised by the learned counsels, the first question to be taken up for consideration, therefore, is whether the deceased was a *bona fide* passenger at the relevant time. The mere fact that the journey ticket was not recovered cannot, by itself, conclude this issue against the appellants. The Supreme Court in Rina Devi (supra) has held that mere absence or non-recovery of a ticket from an injured or deceased passenger does not, by itself, negative the claim of *bona fide* passenger. The initial burden on the claimant can be discharged by placing the relevant facts and attending circumstances on record, whereafter the burden shifts on the Railways to rebut the same. The same principle has also been recently reiterated in “Lata v. Union of India”².

In the present case, the appellants’ case regarding the deceased having travelled from *Sasni* to *Aligarh* on strength of a valid journey ticket has remained consistent and has been stated by way of an affidavit also. It was specifically pleaded that the ticket was lost after the deceased fell from the train. The non-recovery of the ticket has to be considered in the background of the occurrence and cannot be elevated into a conclusive circumstance against the appellants.

6. The next question is whether the death of the deceased occurred in an “untoward incident” within the meaning of Section 123(c) of the Railways Act, 1989 (hereinafter referred to as the “Act”).

²2026 SCC OnLine SC 1350



7. The contemporaneous record shows that information was received on 03.10.2017 regarding an unidentified person lying dead at KM 1305/25-27 beneath the road over bridge. The Station Master's memo records the information as an instance of a person having been "run over" by a train and the *panchnama* records the body to be in a mutilated condition. These circumstances establish the occurrence of a railway-related death, but the question remains as to whether the material on record conclusively establishes that the deceased was on the railway track and was run over while being there, as opposed to having fallen from a moving train.

8. On this aspect, the Tribunal itself noticed that there was no eyewitness to the occurrence and that no Railway official had seen the occurrence. The DRM Report, while attributing negligence to the deceased, proceeded on the basis that he "may have been" standing at the gate or sitting on the footboard of the compartment. The Tribunal itself observed that the Investigating Officer and the Divisional Railway Manager had relied upon "conjectures and surmises" in arriving at this conclusion. The said finding assumes significance because there is also no material on record showing that the deceased was seen walking upon or otherwise being present on the railway track immediately prior to the occurrence. There is also no evidence identifying any other train as the train which allegedly ran over him.

9. Equally, the nature of the injuries cannot, in the facts of the present case, be treated as conclusive of a "run-over". The record does not contain any eyewitness account of the occurrence, nor any evidence from the Loco Pilot or Guard of a train which allegedly ran



over the deceased. The Station Master's memo is a contemporaneous document recording the position in which the body was found and the information received. It does not establish, by itself, the precise manner in which the deceased came to be at that location. Thus, the Tribunal could not have proceeded from the possibility of a run-over to the rejection of the appellants' case of accidental fall without there being positive material establishing the former.

10. On a cumulative consideration of the material on record, this Court is of the view that the appellants discharged the initial burden of establishing the deceased's status as a bona fide passenger on a preponderance of probabilities. The non-recovery of the journey ticket, in the facts of the present case, could not have been treated as conclusive. Likewise, the material relied upon by the Tribunal to hold that the deceased was "run-over" does not establish such manner of death with the requisite certainty.

The surrounding circumstances, including the contemporaneous railway record and the absence of positive material establishing an alternative manner of death, support the appellants' case of an accidental fall from the train.

11. 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 28.10.2026.



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12. The appeal is allowed and disposed of in the above terms.
13. A copy of this judgment be communicated to the learned Tribunal.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 24, 2026

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