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

% Reserved on : 15.09.2026
Pronounced on : 06.10.2026
Uploaded on : 06.10.2026

 # CNR No. DLHC010249642023

+ FAO 152/2023

RAM BHAKT SHARMA .....Appellant
Through: Mr.Rajan Sood, Ms. Ashima Sood and Ms. Megha Sood, Advocates

versus

UNION OF INDIA .....Respondent
Through: Mr. Vikrant Nilesh Goyal, Mr.Inderpreet Singh and Mr.Kunal Dixit, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present appeal under Section 23 of the Railway Claims Tribunal Act, 1987, the appellant seeks to assail the judgment dated 28.03.2022 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/DLI/LKO/149/2021, whereby the claim application filed by the appellant seeking compensation on account of death of hisson, *Shiv Kumar* (hereinafter referred to as the "deceased"), came to be dismissed.

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2. The facts in a nutshell are thaton28.11.2011, the deceased was travelling from *Kashganj* to *Hathras*, after purchasing a valid journey ticket, along with his friend and co-passenger *Ranvir Yadav*. It is stated that when the train reached *Sikandara Rao*, about 26 kilometres before *Hathras*, the deceased fell from the running train on account of the heavy rush and pushing and pulling of passengers and suffered fatal injuries.The claim application was instituted before the Railway Claims Tribunal, *Lucknow* and was thereafter transferred to the *Delhi* Bench.

3. The Tribunal, however, held that the deceased was not proved to be a *bona fide* passenger and that his death was not the result of an "untoward incident" as defined within the Railways Act, 1989 (hereinafter referred to as the "Act"). In doing so, it principally relied upon the non-recovery of the journey ticket, the evidence of AW-2, the Station Master's Memo and *Panchnama*, as also the nature of injuries recorded in the Post-Mortem Report.

4. Learned counsel for the appellant has assailed the aforesaid findings by submitting that the Tribunal failed to appreciate that the appellant had consistently stated that the deceased had purchased a valid ticket and was travelling with *Ranvir Yadav*, who was himself examined as AW-2. It was submitted that the non-recovery of the ticket could not, by itself, be treated as sufficient to reject the claim. Learned counsel further submitted that the contemporaneous railway record only establishes the condition in which the body was subsequently found and does not disclose any eyewitness account of the deceased being run over by the goods train.

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5. Learned counsel for the respondent, on the other hand, refuted the aforesaid submissions and contended that no journey ticket was recovered from the deceased and the version regarding his travelling with *Ranvir Yadav* could not be relied upon. It was further submitted that the Station Master's Memo and *Panchnama* recorded that the body of the deceased had been cut by a goods train and that the injuries noted in the Post-Mortem Report, particularly the amputation of the neck and separation of the skull from the thorax, were inconsistent with the case of an accidental fall from the passenger train.

6. At the outset, the first question which arises for consideration is whether the deceased was a *bona fide* passenger. It is trite law thatmere non-recovery of a journey ticket cannot, by itself, be treated as conclusive against the claimant. In "*Union of India v. Rina Devi*"[1], the Supreme Court held that the initial burden can be discharged by placing the relevant facts and attending circumstances on record, whereafter the burden shifts upon the Railways to rebut the same by cogent evidence. The same principle has also beenfollowed and reiterated by the Supreme Courtin "*Lata v. Union of India*"[2].

Applying the aforesaid to present factual matrix, the appellant, who was examined as AW-1, did not rest his claim merely on the assertion that the deceased was a passenger. He deposed that the deceased had purchased a valid ticket and was travelling with his friend *Ranvir Yadav*. The latter was examined before the Tribunal as

[1] (2019) 3 SCC 572
[2] 2026 SCC OnLine SC 1350

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AW-2 and specifically stated himself to be a co-passenger. Though the Tribunal did not find the testimony of AW-2 worthy of reliance, the said finding, by itself, does not conclude the issue of *bona fide* status of the deceased. Even if the evidence of AW-2 is kept out of consideration, the testimony of AW-1, i.e. the appellant, is required to be examined in the light of the settled position of law that non-recovery of a journey ticket, by itself, does not negative the claim of *bona fide* passenger status. The initial burden, thus, having been discharged from the evidence of the appellant and the attending circumstances, the onus shifted upon the Railways, which it has failed to discharge.

7. The next question is whether the death of the deceased was the result of an "untoward incident" within the meaning of Section 123(c)(2) of the Act.

8. The Tribunal has primarily proceeded on the basis that the deceased was found on Line No.2 and that the Station Master's Memo and *Panchnama* recorded that the deceased wasrun overby a goods train. A perusal of the record, however, shows that Train No.55340 had passed through Line No.1 at about 22:40 hours, whereas the BCN goods train had passed through Line No.2 at about the same time. The body was noticed thereafter. The DRM Report itself records the requirement of obtaining the statements of the Guard/Loco Pilot of the concerned trains, but no such statement has been brought on record to establish that the deceased was seen being run over by the goods train. There is also no eyewitness account of the deceased entering the railway track or being struck by the goods train.The Station Master's

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Memo and the *Panchnama* undoubtedly constitute contemporaneous material regarding the discovery of the deceased and the condition in which the body was found. They, however, do not by themselves establish the precise sequence of events leading to the injuries.

9. Additionally, the Post-Mortem Report records an abraded contusion on the upper and lateral part of the shoulder and also records that the skull was fractured at multiple places and separated from the thorax. The Tribunal treated the latter injury as ruling out a fall from the passenger train. However, there is no medical opinion on record stating that the injuries were incompatible with an accidental fall from the train or explaining the sequence in which the injuries were sustained.

10. In these circumstances, the conclusion reached by the Tribunal proceeds from the condition in which the body was ultimately found to the manner in which the accident must necessarily have occurred. That inference, in the opinion of this Court, is not borne out by the evidence. The absence of any evidence from the Guard or Loco Pilot of either train becomes particularly relevant in this regard. The Tribunal was therefore required to examine the entire sequence of circumstances rather than treating the decapitation, by itself, as determinative of the manner of the accident.

11. A similar view has been taken by this Court in "*Hoti Lal & Anr. v. Union of India*"[3] where the theory of a passenger having been run over could not be accepted merely on the basis of the circumstances in which the body was found, in the absence of direct evidence

[3]2026 SCC OnLine Del 5816

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establishing that the deceased had entered the railway track or identifying the train responsible for the run-over. The same principle applies with greater force in the present case, where the record itself shows the passage of two trains on the two lines at about the same time, but contains no statement of the Guard or Loco Pilot establishing the manner in which the deceased came to be on Line No.2.

12. On the facts of the present case, this Court is of the opinion that the findings recorded by the Tribunal on both the issues of *bona fide* passenger status and "untoward incident"are liable to be set aside.

13. 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 26.11.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 06, 2026
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