



2026:DHC:8983



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% Reserved on : 21.09.2026
Pronounced on : 09.10.2026
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CNR No. DLHC010988322016

+ **FAO 155/2016**

MAHIPAL & ANR.Appellants

Through: Mr.Ritik Singh, Advocate

Versus

UNION OF INDIARespondent

Through: Mr. Vikas Kumar Sharma,
Senior Central Govt. Counsel

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 22.12.2015 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/161/2013, whereby the claim application filed by the appellants seeking compensation on account of death of their son, *Kulsheshta@ Kuldeep* (hereinafter referred to as the "deceased") came to be dismissed.



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2. The facts in a nutshell are that on 03.04.2013, the deceased came to *Bahadurgarh* Railway Station along with his father to board the EMU train for going to *Sarai Rohilla*. The deceased's father purchased a journey ticket for the deceased, who put it in his shirt pocket and boarded the train which arrived at about 7:40 AM. Owing to the heavy rush, the deceased got a standing space near the gate of the compartment and, at about 9 AM, when the train had crossed *Shakurbasti* Railway Station and was nearing *Daya Basti* Railway Station, he lost his balance on account of a sudden jerk and jolt and thrust from inside the coach, slipped and struck against an electric pole. The deceased remained admitted in the hospital from 03.04.2013 to 24.04.2013 and again from 25.04.2013 to 07.05.2013 and was thereafter discharged, as there was no hope of recovery. He breathed his last on 08.05.2013 while being taken to *PGI, Rohtak*.

3. Learned counsel for the appellants submits that the Tribunal failed to appreciate the evidence of the father of the deceased, who was examined as AW-1 and the documents on record, including the MLC and the hospital record, which establish that the deceased was a *bona fide* passenger who fell from the train. It is urged that the appellants were required to establish their case only on a preponderance of probabilities and that the loss of the ticket stood explained. The respondent, which led no oral evidence, did not examine any eyewitness to show that the deceased was leaning out of the train. It is further submitted that even on the respondent's own showing, mere negligence would not take the occurrence outside Section 123(c)(2) of the Railways Act, 1989 (hereinafter referred to as



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the “Act”).

4. *Per contra*, learned counsel for the respondent, relying on the written statement, denied that the deceased was a *bona fide* passenger and pleaded that the deceased was hanging outside the train and suffered self-inflicted injuries, for which the respondent/Railways was protected under Section 124-A of the Act.

5. Having heard learned counsels for the parties and perused the record, the first question which arises is whether the deceased was a *bona fide* passenger. The legal position is well settled. In “Union of India v. Rina Devi”¹, the Supreme Court held that mere absence of a ticket with the injured or deceased does not negative the claim of *bona fide* passenger, the initial burden upon the claimant is not an onerous one and 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 Supreme Court has recently reiterated this in “Lata v. Union of India”², cautioning against a technical approach and holding that the standard is that of preponderance of probabilities, and in “Sukhabhai Nanjibhai Makwana & Anr. v. Union of India”³, where it was again held that the absence of a ticket, by itself, cannot defeat the claim once the initial burden stands discharged through the claimant’s evidence.

In the present case, the appellants pleaded from the very beginning that the ticket had been purchased for the deceased, he had kept it in his shirt pocket and that it was lost as the shirt was

¹ (2019) 3 SCC 572

² 2026 SCC OnLine SC 1350

³ 2026 INSC 1056



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completely torn and soaked in blood. The said version was reiterated in the affidavit rendered by the father of the deceased/AW-1. No booking record, no statement of any booking clerk or ticket examiner and no other material has been placed on record to show that a ticket was not issued, and the respondent led no oral evidence at all. The appellants, thus, having discharged the initial burden through the evidence of AW-1 and the attending circumstances noticed above, the onus shifted upon the Railways, which has failed to discharge it.

6. The next question is whether the occurrence was an “untoward incident” within the meaning of the Act. Section 123(c)(2) includes the expression “accidental falling of any passenger from a train carrying passengers” and Section 124-A makes the Railways liable to pay compensation on account of such an incident, whether or not there has been any wrongful act, neglect or default on its part, subject to the exceptions in the proviso. The Supreme Court has emphasised the beneficial nature of the provision and the strict liability flowing from it in “Union of India v. Prabhakaran Vijaya Kumar &Ors.”⁴.

7. Notably, a perusal of the record clearly shows that the fall of the deceased from the train is not in dispute. The memo issued by the Station Master records that a passenger had fallen from Train No.64912 (Rohtak-Delhi Passenger). The controversy is thus confined to whether the respondent has brought the case within clause (b) or clause (c) of the proviso to Section 124-A, namely, self-inflicted injury or the deceased’s own criminal act. Since the Railways seek the benefit of the said exception, it was for them to establish it by cogent

⁴ (2008) 9 SCC 527



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material.

8. The material relied upon by the respondent, however, clearly does not meet that standard. The case of the respondent rests on the statement of HC *Vinod Kumar* recorded in the DRM inquiry and the entries and statements derived from it. He was, however, never examined before the Tribunal, nor was any other railway official. It was for the respondent, which relies on him as an eyewitness, to produce him, and the appellants had no occasion to cross-examine a person who was never produced at the first place.

In this Court's view, a departmental report and the statements annexed to it, which no witness has proved, cannot be treated as conclusive proof of the manner in which the incident occurred. The statements of the Driver and the Guard record that no "untoward incident" was reported to them. At the highest, they show that the said persons did not witness anything, and not that the incident itself never occurred.

9. Furthermore, even if it were assumed that the deceased was leaning out of the door, the result would not change. In "*Jameela v. Union of India*"⁵ the Supreme Court held that standing at the open door of a running train may be a negligent or even a rash act but, without anything more, it is not a "criminal act" within clause (c) of the proviso to Section 124-A, as such an act must carry "an element of malicious intent or *mens rea*". There is no material on record from which any such intention, or any malicious or deliberate act, can be attributed to the deceased.

⁵(2010) 12 SCC 443



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10. In view of the above, this Court holds that the death of the deceased occurred in an “untoward incident” within the meaning of Section 123(c)(2) of the Act and that the respondent has failed to establish that the case falls within any of the exceptions contained in the proviso to Section 124-A.

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 30.11.2026.

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

OCTOBER 09, 2026/na