



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/FIRST APPEAL NO. 213 of 2024**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE J. C. DOSHI**

Approved for Reporting	Yes	No
		No

UNION OF INDIA

Versus

MANDABAI W/O SUKHDEV CHAVAN (MOTHER OF DECD.)

Appearance:

MR HARSHEEL D SHUKLA(6158) for the Appellant(s) No. 1

MR KUNAL M SHAH(5588) for the Defendant(s) No. 1

MR PJ MEHTA(467) for the Defendant(s) No. 1

**CORAM: HONOURABLE MR. JUSTICE J. C. DOSHI**

**Date : 28/04/2026**

**JUDGMENT**

1. By impugned judgment and award dated 04.08.2023, learned Railway Claims Tribunal, Ahmedabad (for short **‘the Tribunal’**) in Case No.OA.2018/0005 awarded compensation of sum of Rs.8 lakhs with 9% interest from the date of incident i.e. 17.04.2017 till date of realization.

2. Being aggrieved by judgment dated 04.08.2023, appellant - Railways has preferred present appeal under section 23 of the Railway Claims Tribunal Act, 1987.

3. Tersely stated facts borne out from impugned judgment are that – deceased Prakash was travelling from Mumbai to



Ahmedabad and accidentally fell from train carrying passengers resulting into his death on the spot on 17.04.2017. Therefore, mother of the deceased claimed compensation of Rs.8 lakhs by filing claim petition before the learned Tribunal. Respondent – Railways contested claim of the claimant by filing written statement along with DRM report. Respondent Railway Administration denied all the averments and raised presumption that deceased might have committed suicide or fallen down due to his own negligence. It was therefore, contended that alleged incident is covered under section 124-A(b) of the Railways Act, 1989 and thus, claimant is not entitled to claim amount of compensation.

4. Learned Tribunal permitting both the parties to lead evidence, after fixing issues, was pleased to grant compensation of sum of Rs.8 lakhs with 9% interest per annum from the date of incident till realization.

5. Heard learned advocate Mr.H.D.Shukla for appellant and learned advocate Mr.P.J.Mehta for respondent – original claimant.

6. In line of its defence raised by Railways, learned advocate Mr.Shukla would submit that claimant failed to prove that deceased was traveling with ticket and since deceased was not bona fide passenger, learned Tribunal committed illegality in granting compensation. It is submitted that DRM report on record indicates that deceased fell from running train, which itself raise presumption that deceased due to his own negligence fell from train or might have committed suicide, in that event,



Railways is not entitled to pay compensation. It is also submitted that conjoint reading of evidence, it is proved that deceased was not bona fide passenger and fell due to his own negligence or might have committed suicide. It is submitted that learned Tribunal committed manifest error in granting compensation by overlooking the very rudimentary facts, therefore, the appeal deserves consideration.

7. Per contra, learned advocate Mr.Mehta for the respondent – claimant submitted that claimant has filed affidavit stating that ticket purchased by the deceased was lost in the accident, besides that, she entered into witness box and stated the same thing on oath. The said fact is not controverted in cross examination and thereby, Railways has accepted that deceased was travelling as bona fide passenger. It is submitted that even otherwise Railways should not take hyper technical approach that frustrates the object of providing relief to the victim. It is submitted that no ordinary person would jump from running train except in case of suicide. It is further submitted that as per rule 7.2 of the Railways Passengers (Manner of investigation of Untoward Incidents) Rules, 2003 (for short **“the Rules, 2003”**), Investigating Officer has to complete investigation within 60 days, however, in case on hand, Investigating Officer did not adhere to statutory time and therefore, report of the Investigating Officer cannot be taken into consideration. It is submitted that learned Tribunal has rightly passed the judgment by referring to provisions of Railway Act as well as judgment of Hon’ble Apex Court.

7.1. Upon above submissions, it is submitted to dismiss the



appeal.

8. Having heard learned advocates for both the sides, considering impugned judgment and Record and Proceedings, at the outset, I may observe that Investigating Officer did not complete the investigation within 60 days from the date of incident and therefore, it is clear breach of Rule 7.2 of the Rules, 2003. Finding of learned Tribunal remained uncontroverted that investigation had not been completed within time limit, rather it was completed on 18.03.2018 i.e. after one year of accident. Therefore, anything which comes out from report would not come in the way of claimant to claim compensation. Rule 7.2 of the Rules, 2003 says that Railways to carry out investigation and report to Divisional Security Commissioner within 60 days.

9. At this stage, I may refer to judgment of Hon'ble Apex Court in the case of **Kalandi Charan Sahoo v/s. GM, South East Central Railway [2018 ACJ 1460]**, whereby, Hon'ble Apex Court has held that "..... it was not necessary to find out as to whether it was the fault of the deceased or that he accidentally fell down – whether as per section 124-A and in view of the fact that no inquiry as provided by the Rules was conducted immediately after the incident, claimants are entitled to compensation."

10. I may also refer recent judgment of Hon'ble Apex Court in the case of **Shrikumar Gupta v/s. Union of India [2025 Live Law (SC) 1115]**, whereby, while negating Railway's plea under section 124A proviso clause (b) that death was caused by the deceased's self negligence from jumping train, Hon'ble Apex



Court in para 10 has taken view as under :-

*“10. Insofar as the contention or the plea put forward by the railways that deceased had sustained injuries on account of his own act, though, at first blush looks attractive, we are not inclined to accept the same for the simple reason that no sane person could have attempted to deboard or alight from a running train that too an express train. The railway authorities have taken a plea in the written statement in paragraph 3 that the deceased had jumped off the train, namely, had alighted at the station where he intended to alight, is a plea without proof. Having raised such a plea, it was incumbent upon the railway authorities to prove the same. However, the DRM Report is also silent on this aspect. For these reasons we are unable to accept the contention of learned ASG. The two members of the tribunal have rightly held that the railway authorities are required to pay the compensation.”*

11. In aforesaid circumstances, when Railways failed to complete investigation within stipulated time period and further failed to lead evidence that deceased has committed suicide by jumping from train, learned Tribunal has rightly presumed that deceased fell from running train as he received jerk. No sane person would attempt to de-board or alight from running train. Therefore, appellant Railways has failed to prove its first contention.

12. So far as second contention of the appellant that deceased was not bona fide passenger, as claimant has failed to produce ticket is concerned, it is case of the claimant that deceased was travelling in train with ticket and as there was sudden jerk and jolt, deceased fell down from train and lost his ticket. Said fact is declared on affidavit and also on oath by the claimant, more



particularly para 3 on page no.150 i.e. affidavit filed by claimant. In cross examination, it is not contended that deceased has not purchased ticket, rather what is asked is whether ticket was recovered from deceased. Recently, Hon'ble Apex Court in the case of **Rajni v/s. Union of India [2025 Live Law (SC) 986]**, held that mere absence of ticket with the deceased does not negate the claim of being a bona fide passenger. Hon'ble Apex Court further held that hyper technical approach that frustrates the objet of providing relief to victims must be eschewed. Relevant observation of Hon'ble Apex Court in para 11 to 14 reads as under :-

*“11. This Court in the case of Doli Rani Saha vs. Union of India, has held that the burden of proof would shift to the Railways once, the Claimant-Appellant filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the railway authorities. It has been further held: -*

*“15. From the recapitulation of the various judicial pronouncements leading to the present appeal, it can be seen that the primary issue is whether the deceased was travelling on the train in question. In Rina Devi [Union of India v. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198] , a two-Judge Bench of this Court considered the question of the party on which the burden of proof will lie in cases where the body of the deceased is found on railway premises. This Court held that the initial burden would be on the claimant, which could be discharged by filing an affidavit of the relevant facts. Once the claimant did so, the burden would then shift to the Railways. Significantly, it also held that the mere absence of a ticket would not negate the claim that the deceased was a bona fide passenger. The relevant extract from the ruling of the Court is reproduced below: (SCC p. 588, para 29) “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 supplied)*

*16. In the present case, the appellant had duly filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the respondent, which showed that the deceased was travelling on the train and that his death was caused by a fall during the course of his travel. The burden of proof then shifted to the Railways, which has not discharged its burden. Therefore, the presumption that the deceased was a bona fide passenger on the train in question was not rebutted.*

*17. Further, the report of the IO indicates the details mentioned in the post-mortem report. It states that the cause of death was due to an injury sustained on the head and that all injuries were antemortem and caused by “blunt force impact”. It also states that forty-eight to seventy-two hours had passed since the time of death.”*

*12. Though Ms. Rukhmini Bobde, learned Standing Counsel appearing for the Railways has made a fervent plea to contend that the finding recorded by the Tribunal with regard to the suspicious circumstances of the railway tickets relied upon is sufficient to discard the claim, we are not impressed by the said submission for reasons more than one. Firstly, the initial burden which is cast on the claimants to prove that the deceased had travelled in the train has been discharged by the sworn statement made by first claimant (wife of deceased). Secondly, the High Court by relying upon the report of DRM report (R/ 1) has arrived at a conclusion that death of 1st claimants husband would fall*



*within the purview of expression ‘untoward incident’ as defined under Section 124 (A) of the Act; Thirdly, the railway ticket which formed part of the police report stood un rebutted; Fourthly, the very same report also disclosed the Chief Booking Supervisor, Indore had verified the ticket produced alongwith the report of the police and certified that ticket had been issued from Indore Station. This would clearly satisfy the requirement of the expression ‘passenger’ as contemplated under Clause (ii) to Explanation to Section 124 (A) of the Act and deceased being declared as a ‘passenger’ travelling in the train. This view also gets fortified by the judgment of the coordinate bench in the case of Kamukayi and Other vs. Union of India and Others<sup>4</sup>, whereunder it has been held: -*

*“9. .... By the explanation of the said section clarifying about “passenger”, it would include a person who has purchased a valid ticket for travelling by a train carrying passengers on any date or a valid platform ticket and becomes a victim of an untoward incident.*

*10. This Court in Rina Devi [Union of India v. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198] has explained the burden of proof when body of a passenger is found on railway premises. While analysing the said issue, this Court has considered the judgment of the Madhya Pradesh High Court in Raj Kumari v. Union of India [Raj Kumari v. Union of India, 1992 SCC OnLine MP 96] and the judgments of the Delhi High Court in Gurcharan Singh v. Union of India [Gurcharan Singh v. Union of India, 2014 SCC OnLine Del 101] , the Andhra Pradesh High Court in Jetty Naga Lakshmi Parvathi v. Union of India [Jetty Naga Lakshmi Parvathi v. Union of India, 2011 SCC OnLine AP 828] and also considered the judgment of this Court in Kamrunnissa v. Union of India [Kamrunnissa v. Union of India, (2019) 12 SCC 391 : (2018) 5 SCC (Civ) 613] and in para 29 concluded as thus : (Rina Devi case [Union of India v. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198] , SCC p. 588) “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 supplied)*

*13. In the light of the above, we are of the considered view that the High Court had faulted in affirming the finding of the Railways Claims Tribunal whereunder the claimants petition had been rejected for nonproduction of a seizure memo of the ticket and for non- examination of the investigating officer, which is and was the main thrust of argument canvassed by the learned Counsel appearing for the Railways. This reasoning ignores the consistent judicial line that the absence of formal seizure or witness examination does not, by itself, negate bonafide travel when other material evidence substantiate the claim. Mere technical irregularities or lapses in procedure should not defeat a legitimate claim under a welfare statue, like the Railways Act, 1989. Particularly Chapter XIII which deals with liability of railway administration for death and injury to passenger due to accident. A Hyper technical approach which would frustrate the object of providing relief to victims of railway accidents should be eschewed. The insistence on a formal seizure memo would amount to importing standard of proof which normally is sought for in a criminal trial.*

*14. Hence, we reaffirm that proceedings under Section 124-A of the Railways Act are not criminal trials demanding proof beyond reasonable doubt, but welfare statues are governed by the principles of preponderance and probabilities. Once the foundational facts of (i) possession or issuance of a valid ticket, and (ii) occurrence of an accidental fall from a train, are established through credible material, the statutory presumption of bona fide travel must operate in favour of the claimant. The Railways, as an instrumentality of the State, cannot defeat such claims by pointing to procedural imperfections in investigation or non-examination*



*of formal witnesses. To hold otherwise would erode the beneficial character of the legislation and convert a social-justice remedy into a forensic obstacle race.”*

13. Applying aforesaid ratio to the facts of the present case, according to this Court, appellant – Railways has failed to prove second contention also.

14. In aforesaid premises, it is proved that the deceased was bona fide passenger and he met with untoward accident and lost his life while he was travelling from Mumbai to Ahmedabad on 17.04.2017.

15. In view of above finding, the first appeal deserves no consideration. Accordingly, the first appeal is dismissed. Interim relief granted earlier, if any, stands discontinued. Record and proceedings, if any, be send back to learned Tribunal concerned.

16. The learned Tribunal concerned is directed to disburse the remaining amount of compensation to the original claimant along with interest, after due verification and identification.

SATISH

**(J. C. DOSHI,J)**