



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1607 of 2013

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

Sd/-

=====

Approved for Reporting	Yes	No
		No

=====

SAMPATIA W/O SHOKHILAL KOLI

Versus

UNION OF INDIA

=====

Appearance:

MR UM SHASTRI(830) for the Appellant(s) No. 1

MR. MANISH MALAVIYA for MS ARCHANA U AMIN(2462) for the Defendant(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 31/08/2026

JUDGMENT

1. Being aggrieved and dissatisfied by the judgment and award passed in Case No. OA – 0700197 by the learned Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad by which the claimant's claim application was dismissed, the claimant has preferred the present appeal under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as 'the Act').

2. The parties are referred to as per their original status before the learned trial Court.



3. Brief facts of the case are as under:-

3.1 On 12.06.2003, deceased – Shokhilal Koli was travelling in a train from Godhra to UP and he accidentally fell due to sudden rush, jerk and jolt of the train.

3.2 The claimant filed a claim application stating that the deceased was traveling with a valid travelling ticket and was a *bona fide* passenger, but same was lost in the incident.

3.3 The usual contentions were raised by the railway administration in their reply that the deceased was traveling without a ticket and was not a *bona fide* passenger, and the incident, which took the life of the deceased, does not fall within the provision of Section 123(c)(2) of 'the Act'.

3.4 It is further contended that as per the memo of Station Superintendent, Derol and Inquest Panchnama that Loco Pilot of Train No.9165 informed that one unknown person had fallen down between KM No.444/24-26 between Derol and Bakrol.

3.5 The learned Railway Claims Tribunal, after framing the issues, denied the claim on the ground that the claimant has not specifically mentioned the train number and in affidavit, the claimant attempted to change his version. Moreover, in absence of any ticket either recovered from the body of the deceased or from the place where the Inquest Panchnama was prepared or not produced during the claim proceedings, claimant hopelessly failed to prove that deceased was *bonafide* passenger.



Consequently, the learned Railway Claims Tribunal dismissed the claim petition.

3.6 Aggrieved by the impugned judgment and order, the appellant is before this Court.

4. Heard learned advocate Mr. U.M. Shastri appearing for the appellant and learned advocate Mr. Manish Malaviya for learned advocate Ms. Archana U. Amin appearing for the respondent - Railway Administration.

5. At the outset, what is noticeable that as per the memo (Exhibit-A-2) and even as per the case of the Railway Administration, the Loco Pilot has seen deceased falling from the running train between KM No.444/24-26 between Derol and Bakrol. He was travelling in the Sabarmati Express Train No.9165. This factual aspects, remains undenied, are sufficient to prove untowards incident.

6. The learned Railway Claims Tribunal to negate the claim of the claimant, observed as under:-

“...Respondent argued that the deceased was not a bona fide passenger as the applicant did not place on record the ticket by which the deceased was travelling on the fateful day. He further argued that it is a general tendency to get compensation on the false plea that the ticket was lost after falling down from the train. Even assuming for the sake of argument that the deceased was holding the ticket, mere holding the ticket in itself is not sufficient to jump to the conclusion that at the time of incident the deceased was traveling in a passenger carrying train.



Therefore, in this case it cannot fall within the purview of untoward incident as claimed by the claimants. It transpires from the above discussion that the applicant has not come out with clean hands before the Tribunal. There is total variance with the pleadings as well as evidence produced on record. Therefore, for want of proper evidence on record in support of claim of the petitioner, I am unable to hold that the deceased was travelling as a passenger and fallen down from the train and became a victim of untoward incident. Therefore, on the basis of the above facts on record, I am of the opinion that the present petitioner fails to establish above two issues accordingly, I decide issue No. 1 & 2 in negative.”

7. Apt to note that, the aforesaid finding is diagonally contrary to the judgment of the Supreme Court in the case of ***Rajni & Another vs. Union of India***, reported in **2025 LiveLaw (SC) 986**, whereby the Supreme Court held that, mere absence of ticket with the deceased does not negate the claim of a *bona fide* passenger. The relevant finding of the Supreme Court in paragraph 9, 11, 12, 13 & 14 reads as under:-

“9. The legal position is not in dispute: Section 124-A of the Railways Act, 1989 embodies a no-fault regime for "untoward incidents", but compensation remains predicated on the victim being a "passenger". For present purposes, Explanation (ii) to Section 124-A would be relevant in the background of same having been denied by railway authorities. It reads as follows:

"Explanation (ii) 'passenger' includes 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."
(emphasis supplied)

In Union of India v. Rina Devi (supra), this Court affirmed



that compensation under Sections 124/124-A is payable "whether or not there has been wrongful act, neglect or fault" and clarified two facets namely: (i) the regime is one of strict (no-fault) liability, with exceptions confined to the proviso to Section 124-A; and (ii) mere non-recovery of a ticket from the victim's person is not ipso facto fatal where the claimant lays a credible prima facie foundation, upon which the onus may shift to the Railways. The central inquiry, therefore, is whether the appellants had first discharged the threshold burden of proving the fact that deceased was a bonafide passenger of the Train No. 12465 (Indore to Ujjain) so as to trigger any shifting of onus on the railway authorities.

xxx xxx xxx

11. This Court in the case of Doli Rani Saha vs. Union of India (2024) 9 SCC 656, 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 Others vs. Union of India and Others (2023) 19 SCC 116, 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 statute, 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 statutes 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."



8. In view of the above, the issue raised in the present first appeal is no more *res-integra*. When the deceased admittedly fell from the running train, it is an untoward incident, and the claimant came out with the affidavit that the deceased was traveling with the ticket. Thus, the burden gets shifted upon the other side to disprove the aspect. In the present case, the Railway Administration has failed to bring any evidence on record to prove the fact that the deceased was traveling without the ticket.

9. Therefore, it proves that the learned Railway Claims Tribunal has taken a hyper-technical approach to deny the claim. Such approach deserves to be set aside.

10. In view of the above, appeal deserves to be allowed and accordingly it is **allowed**. Consequently, the impugned judgment and award is quashed and set aside.

11. Resultantly, the claimants are entitled to get the compensation of Rs.4 lakhs with 9% interest from the date of incident till its realization or Rs.8 lakhs, flat, whichever is higher.

12. The Railway Administration is directed to deposit the entire decretal amount before the learned Railway Claims Tribunal within a period of **06 weeks** from today.

13. Upon deposit of the amount, the same shall be paid to the claimant by way of RTGS/NEFT after due verification and identification.



14. Registry is directed to return back the R & P, if any, to the concerned Court forthwith.

15. Connected CA, if any, do not survive.

Sd/-
(J.C. DOSHI, J.)

Raj