

रेल दावा अधिकरण, भुवनेश्वर पीठ, भुवनेश्वर
BEFORE THE RAILWAY CLAIMS TRIBUNAL
BHUBANESWAR, BENCH, BHUBANESWAR

QUORUM : SHRI SYED NISHAT ALI, HON'BLE MEMBER (TECHNICAL)/RCT/NGP
CIRCUIT BENCH AT RCT/BHUBANESWAR BENCH

Case No.: OA (Ilu)/PNBE/222/2023

Date of Judgement - 26.09.2025

- APPLICANTS :**
1. Mina Devi w/o Late Shiv Kumar Ray
 2. Punam Devi D/o Late Shiv Kumar Ray
(Married W/o Dhananjay Kumar)
R/o Village – Sumerpath, P.S. Dighwara,
Distt – Saran, Pin - 841207
 3. Priyanka Kumari D/o Late Shiv Kumar Ray
 4. Situ Ray S/o Late Shiv Kumar Ray
 5. Sanjana Kumari D/o Late Shiv Kumar Ray
 6. Ram Pravesh Ray S/o Late Nagina Ray
 7. Tetari Devi W/o Ram Pravesh Ray

Applicants No. 1,3,4,5,6 & 7 are the
resident of Village : Bhaluhi, Ward No.14, P.O. Bhaluhi,
P.S. Madhaura, District – Saran, PIN Code No.841419

V/s.

RESPONDENT : Union of India through General Manager
N.E. Railway, Gorakhpur

VALUE OF CLAIM: Rs. 8,00,000/- + Interest

Applicant by Advocate Shri Sanjay Kumar (Appeared virtually)

Respondent by Advocate Shri Radhika Raman (Appeared virtually)

JUDGEMENT

1. As per order of Hon'ble Chairman/RCT/Delhi, this case was assigned to Bhubaneswar Bench of RCT for hearing and disposal through hybrid mode. After hearings of arguments from both the sides through hybrid mode on 17.09.2025, the matter was reserved for order and is decided on merit of the case.



2. The applicants have filed a claim application seeking compensation for the unfortunate death of Late Shiv Kumar Ray s/o Ram Pravesh Ray, aged about 41 years which occurred allegedly in an untoward incident on 11.01.2019.

3. It is mentioned by the applicants in Brief History of the case in claim application as under :

"....."

The deceased Shiv Kumar Ray purchase a Second Class passenger ticket from Chhapra Jn. to Hathua on 11.01.2019 and boarded in the train No-75203 at Chhapra Jn. on same day. There were heavy rush inside the Compartment of the said train. Due to heavy rush pull and push of the passengers as well as jerk of the train deceased accidentally fell down from the said running train near Chaimwa Rly. Station on same day and received grievous injuries resulted to death on spot. For that an U.D. Case No. 1/19 dated 12.01.2019 has been registered under G.R.P.S. Chhapra." (Reproduced as verbatim).

4. Upon receipt of notice the respondent Railway had contested the claim application by filing the written statement along with the statutory Report of DRM. The preliminary objections taken in the written statement as under.

"....."

1. That, the present O.A. filed by the applicant is not maintainable either on facts or on law. As such this is the fit case to be dismissed as having no merits.

2. That, all the statements and allegations made in the instant application are hereby denied. Save and except, the facts which are specifically admitted by the respondent.

3. That, the statements made in para 1 to 6 with respect to the personal details by the applicant is required to be asked to prove it by cogent and documentary evidence. The applicant may be asked to state the facts that no other case except it has been filed related to payment of compensation under the Railways Act, 1989.

4. That the averments in para 7 of the instant application is with respect to the establishment of the relationship with the deceased. For that matter, in addition to the Aadhar number of the applicants, the applicant is also required to be asked to prove it by cogent and documentary evidence.

5. That the averments made in column II of the applicant has disclosed about travel details of the deceased, where detail of ticket is given as "Ticket No. 63912522, date of issue 11.01.2019, station mentioned in the ticket Chhapra Jn. To Hathua. The above ticket details pertaining to the travel journey of the deceased is highly suspicious or in other words must not be appreciated.

for the reason, that it is factual and admitted position of the said incident that, the dead body of the deceased was found from Down Line No. 3.

6. That the Applicants version stated in the O.A., their depositions and ticket are showing a highly contradictory view that the deceased was traveling from Chhapra Jn. to Hathua where train runs /passes from UP Line. However, the body of the deceased was found from Down Line No. 3, which is completely in opposite route to the Ticket allegedly carried by the deceased. Hence, it is not as case of the untoward incident by falling down from a passenger train but it is as case of Run over by un-identified train due to the mistake of the deceased or intentionally committed suicide.

7. That hence, these types of bare statement clearly indicates the ill intention of the applicants in creating a false and fabricated story with respect to untoward incident and deceased as bonafide tickets holder. Hence, this process of getting claim by planted story needs to be deprecated.

8. That as per averment made in column III, para - d, it was admitted by the applicants and also came in investigation that, there was no eye witness of the incident.

9. That the applicant's version of the story is baseless and contrary to the evidences available on record. The applicants failed to produce any material pertaining to the untoward incident in support of their claim under O.A. This also gives a sense of suspicion on truthfulness of applicant's story.

10. That it is submitted that facts given in the O.A and findings came out of the detailed enquiry conducted by the respondent in hand is sufficient to prove that the applicant has filed this case without showing the essential piece of evidence in support of their claim, and hence the instant case is false and fabricated, which fit to be dismissed at the outset, on amongst the following ground:-

a. That the averment with respect to the falling of the deceased from train is false and concocted story of the applicant. The true-fact is that, the deceased was crossing the railway track, they met with the accident with some un-identified train due to mistake of deceased himself or he has committed suicide.

b. That the deceased met with accident with some unknown train as there was no eyewitness to the said incident.

c. That ticket pertaining to the traveling ticket of deceased was produced by the applicants, not his destination travel as supporting mentioned in the alleged ticket for the reason that, the body of deceased body was found in complete opposite direction to the train ticket journey.

11. That as per the deposition of the Applicants is false and misleading, thus it is denied and also needs to be deprecated by your honour.

12. That with regards to averment made in the O.A, it relevant that the applicants shall be called upon to prove that deceased were bonafide passenger having valid journey ticket. If the applicant failed to do so, this application needs to be dismissed only on this ground itself, apart from other.

13. That the applicant is legally not entitled to any relief as claimed in the claim application. In view of the facts stated above the respondent railway cannot be saddled with any liability and the applicant is not entitled to get any compensation under the Railways Act, 1989.

14. That the claim of the applicant is barred by the principle of estoppels, waivers and acquiescence.

15. That the respondents further submit that the untoward incident is not admitted, the alleged incident is not coming under the provisions of Section 123(C) of the Railway Act, 1989. It is neither an accident nor an untoward incident for which claims of compensation under section 124 A of the Railways Act, 1989 is not admissible.

16. That the applicant has not put any strict proof that the cause of the incident was not due to conditions as defined under (a) to (e) of Section 124 A of Railways Act, 1989 otherwise victim should come under (a) to (e) of Section 124A of Railways Act, 1989. The applicant is trying to get unlawful gain and he should be punished U/S 148 of the Railway Act.

17. That the respondent further craves leave to file any additional written statements, if any occasion arises at any stage of the case for the interest of justice.

It is therefore prayed that Your Honour may be pleased to dismiss the instant Application with cost, as the same is devoid of merits and is misconceived." (Reproduced as verbatim)

The conclusion drawn in Statutory Report of DRM is and under :

".....
मामले में की गयी जाँच के क्रम एकत्र किए अभिलेखीय साक्ष्य, परिस्थितिजन साक्ष्य एवं बयानों व रेल यात्री अनापेक्षित घटना जाँच (रीति) नियम 2020 के अंतर्गत में जाँच कर्ता इस निष्कर्ष पर पहुँचा है कि मृतक रेल यात्री शिवकुमार राय पुत्र श्री रामप्रवेश राय निवासी अलुही, थाना मझौरा, जिला-सारण (बिहार) उम्र-45 वर्ष की मृत्यु अज्ञात ट्रेन की चपेट में के कारण हुयी है परन्तु कोई प्रत्यक्षदर्शी साक्ष्य नहीं है। इस घटना में मृतक लाश डा.लाईन नम्बर 3 में पायी गयी है, जब कि परिजन के बयान व बरामद टिकट के आधार पर मृतक छपरा से हथुआ जाया कर रहे थे तथा बैग प्लेट फार्म न.2 से बरामद हुआ है, जो घटना में विरोधाभास को प्रदर्शित करता है। इस प्रकार मृतक की मृत्यु स्वयंम की तापरवाही से किन परिस्थितियों में हुयी मामला पुराना होने के कारण जात नहीं हो सका। ऐसी स्थिति में मृतक की मृत्यु जीआरपी / छपरा के यूटी जाँच के अनुसार किसी अज्ञात ट्रेन से गिरकर होना पाया गया है अफिल किया गया सत्य से परे है, परन्तु अज्ञात ट्रेन की चपेट में आने से मृतक की मृत्यु होना पाया गया है।" (Reproduced as verbatim).

5. The following issues were framed on 20.09.2024 for adjudication :

1. क्या मृतक प्रसंगत रेलगाड़ी का सद्भावी यात्री था?
2. क्या मृतक की मृत्यु से संबंधित घटना रेल अधिनियम 1989 की धारा 123 (c) (2) संपटित धारा 124-ए के अन्तर्गत परिभाषित अनपेक्षित घटना की परिधि में आती है?
3. मृतक के आश्रित कौन-कौन हैं?
4. यात्रीगण किस उपशम को प्राप्त करने के अधिकारी हैं?

6. To prove their case, the applicant No.1 Mina Devi w/o Shiv Kumar Ray was examined as AW-1 and affirmed an affidavit.

It is deposed by Mina Devi w/o Shiv Kumar Ray during her cross-examination on 23.01.2025 that :

*.....
मृतक शिव कुमार राय मेरे पति थे। मुझे चार बच्चे हैं, पूनम देवी, प्रियंका, संजना कुमारी और सिटु राय। मेरे सास-ससुर जीवित हैं ससुर का नाम राम प्रवेश राय और सास का नाम तेतरी देवी है। जिस दिन मेरे पति के साथ घटना घटी थी उस दिन मैं अपने घर पर थी। शपथ-पत्र मैं बनवायी हूँ। मैं आठवीं तक पढ़ी हूँ। शपथ-पत्र मैं भीड़ भाड़ वाली बात अपने पति से मोबाइल पर उनसे हुई बात के आधार पर लिखायी हूँ। मुझे अपने पति का मोबाइल नं. एवं स्वयं का मोबाइल नं. आज याद नहीं है मैं जो मोबाइल लेकर आयी हूँ उससे देखकर बता सकती हूँ। मेरे पति के शव से पुलिस को मोबाइल मिला था। पुलिस ने मुझे उक्त मोबाइल मुझे दे दिया था। मैं घटनास्थल पर नहीं गयी थी पुलिस ने मेरे सामने बाँड़ी की तलाशी नहीं ली थी। मैंने अपने पति को टिकट कटाते, गाड़ी पर चढ़ते या गाड़ी से गिरते हुए अपनी आँखों से नहीं देखी थी। शपथ-पत्र मैं मैंने घटना का उल्लेख सुनी सुनाई बातों के आधार पर किया है। मेरे पति घर से अकेले गये थे। मेरे पति मीरगंज में काम करते थे। मेरे घर से मीरगंज की दूरी क्या है यह मुझे नहीं पता है। मैं नहीं बता सकती कि मेरे घर से मीरगंज जाने में कितना समय लगता है। मेरे पति मीरगंज में आइसक्रीम कंपनी में काम करते थे। मेरे पति मीरगंज आना जाना भी करते थे एवं कभी-कभी मीरगंज में रुक भी जाते थे। मेरे पति आइसक्रीम के किस कंपनी में काम करते थे मुझे नहीं पता है। मुझे इस बात की जानकारी नहीं है कि मेरे पति गाड़ी से यात्रा कर रहे थे या रेलवे लाइन पार कर रहे थे परन्तु मेरे पति ये बताये थे कि वे गाड़ी में बैठे हैं तथा गाड़ी में बहुत भीड़-भाड़ है।

यह कहना गलत है कि मेरे पति की मृत्यु रेलवे लाइन पार करने के दौरान हुआ था।"
(Reproduced as verbatim)

It is affirmed by Mina Devi w/o Shiv Kumar Ray in her affidavit that :

*.....
1. यह कि मेरे स्व० पति शिव कुमार राय, दिनांक 11/01/2019 को छपरा ज. से हवुआ स्टेशन तक का एक पैसेन्जर टिकट खरीद कर उसी दिन पैसेन्जर ट्रेन में छपरा ज० में सवार हुए थे।
2. यह कि ट्रेन में काफी भीड़ थी।
3. यह कि मेरे स्व० पति शिव कुमार राय उसी दिन चैतका स्टेशन के तजवीक उक्त बमती ट्रेन से भीड़-भाड़ के धक्का मुक्की एवं ट्रेन के झटके से गिर गये और गंभीर जखमी हो गए जिससे उनकी मृत्यु उसी दिन घटना स्थल पर ही हो गई।"
(Reproduced as verbatim).

7. As it appeared from the record Respondent opted not to lead any evidence in this case and the Respondent evidence was closed on 15.05.2025 and the DRM Report along with documents is marked as Exh.R-1 collectively.

8. Heard both the counsels and my findings are as follows.

Findings with reasons

Issues No. 1 & 2:

9.1 These two issues are interlinked and hence taken up together. The applicants have contended in claim application that the deceased Shiv Kumar Ray purchase a Second Class passenger ticket from Chhapra Jn. to Hathua on 11.01.2019 and boarded in the train No.75203 at Chhapra Jn. on same day. There were heavy rush inside the Compartment of the said train. Due to heavy rush pull and push of the passengers as well as jerk of the train deceased accidentally fell down from the said running train near Chainwa Rly. Station on same day and received grievous injuries resulted to death on the spot.

9.2 The inquest proceedings in this case were started by GRP, Chhapra on receipt of Memo issued by Station Superintendent, Chainwa Railway Station on 12.01.2019 at 00:55 hrs. wherein it is informed that "पेट्रोलिंग श्री निरंजन कुमार और संतोष कुमार ने रात्री पत्ती के दौरान 00:25 बजे K.M. 361/8-9 पर DN Line No. (3) प्लेटफार्म नं.2 के सामने एक अज्ञात मृत व्यक्ति (पुरुष) जिसका सर फुटी तरह छत-विछा है और उसकी उम्र लगभग 40 वर्ष के आस-पास है अज्ञात ट्रेन से कटा हुआ पड़ा हुआ है। आवश्यक कार्यवाही हेतु सूचनाई।" (Reproduced as verbatim). During the inquest proceedings, Death Summary Report was prepared by the GRP authorities. It is mentioned in Death Summary Report that ticket No.63912522, Chhapra Jn. to Hathua railway station along with Aadhar Card and Mobile were recovered from the pant pocket of the deceased. One black color bag was also found on platform No.2.

9.3 During argument, it is mentioned by the applicant counsel that the deceased was travelling from Chhapra Jn. to Hathua railway station after purchasing of journey ticket by train No.75203. Due to heavy rush pull and push of the passengers as well as jerk of the train deceased accidentally fell down from the said running train near Chainwa Rly. Station and received grievous injuries and died on the spot. The journey ticket of the deceased was recovered from the deceased during the inquest proceedings hence and the deceased was a bonafide passenger at the time of alleged incident. While

concluding his arguments. Ld. Counsel contended that even otherwise also, burden lies heavily on the respondent-railway to prove that the deceased was not a bona fide passenger and as such a burden has not been discharged by the respondent-railway by adducing any evidence in this regard. the finding of deceased being a bona fide passenger may be recorded in her favour and the claim application deserves to be allowed and the applicants are entitled to compensation.

9.4 Per contra Learned counsel for the respondent-railway argued that the deceased was not a bonafide passenger of the alleged train at all and he was not involved in any untoward incident. The alleged journey ticket is not valid at the time of incidence because as per averment of the applicants, the deceased was travelling from Chhapra Jn. to Hathua railway station by Train No.75203 which is running on up direction whereas the incident occurred at Down Line No.3 of Chainwa railway station. The route as per journey ticket from Chhapra Jn. to Hathua railway station where the train runs /passes from UP Line. However, the body of the deceased was found from Down Line No.3, which is completely in opposite route to the ticket allegedly carried by the deceased. Moreover, the travelling bag of the deceased was found on platform No.2. Hence, it is not a case of the untoward incident by falling down from a passenger train but it is as case of run over by un-identified train due to the mistake of the deceased or intentionally committed suicide. The ill intention of the applicants in creating a false and fabricated story with respect to untoward incident and deceased as bonafide tickets holder.

9.5 It is mentioned by the respondent counsel that the applicant/witness Mina Devi w/o Late Shiv Kumar Ray has no knowledge regarding the purchasing of journey ticket by the deceased and the alleged incident. She was not accompanying with the deceased. She is not an eye-witness of purchasing of journey ticket by the deceased and so also traveling of the deceased and fallen down from the train. It is admitted by her in her cross-examination that "जिस दिन मेरे पति के साथ घटना घटी थी उस दिन मैं अपने घर पर थी। मैं घटनास्थल पर नहीं गयी थी पुलिस ने मेरे सामने बाँड़ी की तलाशी नहीं ली थी। मैंने अपने पति को टिकट कटाने, गाड़ी पर चढ़ने या गाड़ी से गिरते हुए अपनी आँखों से नहीं देखी थी।



शपथ-पत्र में मृत्यु घटना का उल्लेख सुनी सुनाई बार्तों के आधार पर किया है।" It is also opined in DRM Report that "मृतक रेल यात्री शिवकुमार राय पुत्र श्री रामप्रवेश राय निवासी भलुही, थाना मणौर, जिला-सारन (बिहार) उम्र-45 वर्ष की मृत्यु अज्ञात ट्रेन की छपेट में के कारण हुयी है परन्तु कोई प्रत्यक्षदर्शी साक्ष्य नहीं है। इस घटना में मृतक लाश डा.लाईन नम्बर 3 में पायी गयी है, जब कि परिजन के बयान व बरामद टिकट के आधार पर मृतक छपरा से हथुआ यात्रा कर रहे थे तथा बैग प्लेट फार्म न.2 से बरामद हुआ है, जो घटना में विसंगताओं को प्रदर्शित करता है।" (Reproduced as verbatim).

9.6 In the light of above facts, it is argued by the respondent counsel that the deceased was not travelling in any train at the time of occurrence and the journey ticket placed on record by the applicants is not a valid ticket as the alleged ticket was issued for travelling in up line whereas the deceased was found lying dead on down line. It is mentioned by the respondent counsel that the averments of applicant that the deceased was travelling with the journey ticket as a bona fide passenger is totally false and concocted story. The initial burden to prove that the deceased purchased the journey ticket and he was a bona fide passenger is not discharged by the applicant. It is argued by the respondent counsel that in these circumstances deceased cannot be termed as bona fide passenger of any train and the present case is liable to be dismissed. The deceased was not at all bona fide passenger of any train at the time of occurrence. It is argued by the respondent counsel that in these circumstances deceased cannot be hold as a bona fide passenger of any train and the present case is liable to be dismissed and applicant are not entitled for any compensation.

9.7 Section 124-A of The Railways Act, 1989 (for short, 'the Act') entitles a 'passenger' to claim compensation, who has been injured or the dependents of the deceased, who has been killed in an untoward incident as defined under Section 123 (c) of the Act *ibid*. The word 'passenger' has been defined under Section 2(29) of the Act as a person travelling with a valid pass or ticket. As per Section 124 (A) "passenger" includes – (i) a railway servant on duty; and (ii) 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. It is only when the fact of the injured or

the deceased being a bona fide passenger of the train is established, the question of payment of compensation arises in case the incident is held to be an untoward incident. Therefore, if a person is travelling with a valid ticket, only then he/she is a bona fide passenger of the train.

9.8 I have gone through the pleadings, document and evidences available on record. I have also considered the arguments advanced by both the parties and documents available on record. Admittedly, the journey route of the deceased as per journey ticket from Chhapra Jn. to Hathua in on up direction, whereas, the body of the deceased was found on down line No. 3, which is completely in opposite route to the ticket allegedly carried by the deceased. There is no possibility of the deceased to fall down on Down Line railway track while he was travelling in Up direction as alleged by the applicants.

9.9 It is also held in case of Union of India Vs Rina Devi (CA No.4945 of 2018 arising out of SLP (C) No.10223) 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."* The facts of the case discussed above indicate that the deceased was not a bona fide passenger at the time of alleged incident. I find momentum and force in the contention of the respondent counsel that the deceased was not a bona fide passenger and there are no reasons to accept it otherwise. Therefore, it is held that the deceased was not having any valid railway journey ticket at the time of occurrence and as such, he was not a bona fide passenger of any train.

10.1 So far as the manner and circumstances leading to the death of the deceased is concerned, it is seen that nobody had seen the deceased boarding the train. Nobody also had seen him falling from any train. It is argued by the respondent counsel that the averment of the applicant is totally false and concocted story. There is no evidence to say that the deceased fallen down from the train and died on the spot while travelling. The deceased was not involved in any untoward incident.



10.2 It is mentioned by the applicants counsel that the deceased was a bona fide passenger at the time of occurrence and died in an untoward incident hence the claim application deserves to be allowed and the applicants are entitled to get compensation since the merits tilt towards the relevant Section 123 of Railways Act. Per contra learned counsel for the respondent Railway argued that the deceased was not involved in any untoward incident. The deceased was not travelling in any train at all art the time of incidence. The death of the deceased had occurred due to some other reason and he was not involved in any untoward incident. The applicant/witness Mina Devi w/o Late Shiv Kumar Ray has no knowledge regarding the alleged incident. She was not accompanying with the deceased. She is not an eye-witness of purchasing of journey ticket by the deceased and so also traveling of the deceased and fallen down from the train.

10.3 It is also argued by the respondent counsel that the opinion of police authorities in Death Summary Report that the deceased died due to fell down from the running train is only their view keeping in mind the circumstances of incident spot and their opinion is based only on surmise and presumption as no one has seen the deceased falling from the train. The details of Death Summary Report are based on the application of the son of the deceased Situ Ray S/o Late Shiv Kumar Ray as it is clearly mentioned in the police report that "उपरी का लिखित आवेदन के आधार पर रेल थाना छपरा सू.डी. कांठ सं.01/19 दि. 12.01.19 अंकित किया जिसका जाँच एवं आवश्यक कार्रवाई भार स.उ.नि. विजय कुमार प्रसाद को सौंपा।" The insignificant opinion simply diverts the focus of the discussion from the actual attending circumstances and conditions that might have prevailed or existed at the time of the alleged incident. It is argued by the respondent counsel that in absence of any substantive fact, it cannot be said that the deceased was travelling and fell down from the train. It is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railways Act, 1989. Hence Railway administration is not liable to pay any compensation to the applicant.

10.4 Further, it is mentioned by the respondent counsel that it is mentioned in the Memo issued by Station Superintendent, Chainwa Railway Station on 12.01.2019 at

00:55 hrs., it is informed that "पेटोलिंगम श्री निरंजन कुमार और संतोष कुमार ने रानी गल्ली के दौरान 00:25 बजे K.M. 361/8-9 पर DN Line No. (3) प्लेटफार्म नं.2 के सामने एक अज्ञात मृत व्यक्ति (पुरुष) जिसका सर बुरी तरह छत-विछत है और उसकी उम्र लगभग 40 वर्ष के आस-पास है अज्ञात ट्रेन से कटा हुआ पड़ा हुआ है। आवश्यक कार्यवाही हेतु सूचनाएं।" It is also mentioned in DRM Report that "दिनांक 12.01.2019 को मृतक शिवकुमार राय रात प्रवेश रात निवासी मनुही, थाला नदीरा, जिला-सारन (बिहार) उम-45 वर्ष की चैनवा रेलवे स्टेशन PF No.2 के सामने KM361/08-09 आ लाइन नं.03 में किसी अज्ञात ट्रेन की चपेट में आने से कटकर मृत्यु होना जांचकर्म में पाया गया है। मृतक के पास से प्राप्त यात्रा टिकट AEA-63912522 छपरा से हनुमान का पाया गया जिसकी यात्रा अप लाइन से होती है।"

10.5 In the light of above points, it is argued by the respondent counsel that all the above facts clearly indicate that the instant case is not the case of falling down from the train. The deceased was run-over by any train resulting the death of the deceased. It is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) of Railway Act, 1989. The learned counsel for the respondent railway further contended that the applicants failed to prove that the deceased was accidentally fallen down from any running train in an untoward incident. It is also mentioned by the respondent counsel that the story narrated by the applicants is not convincing, contradictory, fabricated, concocted and bogus to claim the false compensation. In the absence of any substantive fact, it can be concluded that it is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railways Act, 1989. Hence Railway administration is not liable to pay any compensation to the applicants. The deceased was not involved in any untoward incident and he was not a bona fide passenger of at the time of alleged incident.

10.6 The applicant/witness Shri Mina Devi w/o Late Shiv Kumar Ray has no knowledge regarding the purchasing of journey ticket by the deceased. She was not accompanying with the deceased and she is not an eye-witness of purchasing of journey ticket by the deceased and so also traveling of the deceased and fallen down from the train. The deceased was not involved in any untoward incident and he was not



a bona fide passenger of any train. In the case of Union of India V/s Rina Devi (CA No.4945 of 2018 arising out of SLP (C) No 10223) it is held that 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. 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."

As per the judgement of the Hon'ble Apex Court in Rina Devi (Supra) the initial onus lies with the applicants to show that there is a death due to untoward incident of a bona fide passenger by filing of the affidavit and depending on the facts of a particular case it can be shifted on the Railways. In the present case the applicants have failed to prove that the deceased purchased the railway journey ticket and he was travelling in the train and died due to an untoward incident as per section 123 (c) (2) of the Railway Act and not able to discharge the initial onus that lies on them. It is also mentioned by Mina Devi in her affidavit that "शपथ-पत्र में मैंने घटना का उल्लेख सुनी सुनाई बार्ली के आधार पर किया है।"

Although it's a beneficial legislation but it cannot be stretch too far to accommodate a clear case of not qualifying as an untoward incident as defined under Sec. 123 (c) (2) of Railway Act, 1989. It is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railway Act, 1989. It is argued by the respondent counsel that all the above facts clearly indicate that the deceased was not a bona fide passenger and the instant case is not the case of falling down from the train. Witness may lie but the records cannot. It is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railway Act, 1989. Hence Railway administration is not liable to pay any compensation to the applicants.

10.7 A reading of the aforesaid paras show that the incident in question is not an untoward incident. The applicants have not been able to prove that the deceased was travelling in any train with valid journey ticket and he had fallen down from any train carrying passengers. The alleged journey ticket placed on record is for travelling on up line direction whereas the deceased was found lying dead on Down Line No.3. I cannot agree with the pleadings of the applicants on this point, since they have failed to prove



by bringing any evidence that the deceased was travelling at the time of incidence and met with an accident as a result of his alleged fall from the train. The fact that Late Shiv Kumar Ray s/o Ram Pravesh Ray (deceased) died, on account of an untoward incident, must be proved by the applicants in order to claim compensation under Section 124-A of the Railways Act. Respondent counsel has much force and momentum in argument that the deceased was not a bona fide passenger and he was not involved in any untoward incident. It can, therefore, be concluded that the deceased was neither a bona fide passenger nor involved in an untoward incident as defined in Section 123 (c) (2) of the Railways Act. These issues, therefore, are decided accordingly against the applicants and in favour of the Respondents.

ISSUE No.3

11. In view of the findings on issue No.1 and 2, discussion on this issue pales into insignificance and will be a redundant exercise too.

ISSUE No. 4 (Relief)

12. In my considered view and opinion, the findings on issue No.1 & 2 go against the applicants and the applicants are not entitled to any compensation and this issue is answered accordingly.

ORDER

13. The claim application is dismissed with no order as to costs.
14. File to be sent to the parent Bench i.e. RCT/PNBE Bench.



(Syed Nishat Ali)

Member (Technical)/RCT/NGP
Acting as Circuit Bench of parent Bench
i.e. RCT/PNBE Bench

Nagpur,
Date : 26.09.2025