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MA-3232-2011

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 17th OF OCTOBER, 2025MISC. APPEAL No. 3232 of 2011*VIJAY SINGH GOUR AND OTHERS**Versus**UNION OF INDIA*

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Appearance:

Shri Ratnakar Prasad Mishra - Advocate for the appellants.

Shri Satyendra Kumar Patel - Advocate for the respondent.

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Reserved on : 24.09.2025

Pronounced on : 17.10.2025

ORDER

The instant appeal under Section 23 of the Railway Claims Tribunal Act, 1987, has been preferred by the appellants assailing the award dated 26.04.2011 passed by the Member-Technical, Railway Claims Tribunal, Bhopal, in Case No.O.A. Iiu/209/07 whereby the claim filed by the appellants has been rejected.

2. Facts of the case in brief are that it was intimated to the police that on 11.11.2006, when the deceased- Gurmeet Singh i.e.son of present appellants, was travelling in a passenger train from Bhilai Power House Station to Durg possessing a valid ticket, unfortunately, due to excess rush and pushing of passengers and jerks in the train, he fell down from train, resulting into his death. The police registered the case and matter was investigated. The appellants have filed a claim seeking compensation before the Railway Claims Tribunal, Bhopal, on account of untoward incident



happened with the deceased- Gurmeet. Vide order dated 26.04.2011, the learned Tribunal has found that the deceased neither was a *bona-fide* passenger nor died because of falling from train and rejected the claim.

3. Learned counsel for the appellants has submitted that the learned Tribunal has erred in not accepting the evidence adduced by co-passengers of the deceased travelling in the same train doubting upon his conduct. The learned Tribunal has also erred in holding that the deceased was not having valid ticket while travelling in the train whereas the claimants have duly produced the Identity Card issued with the season ticket pass by the Railways. In support of his contention, the counsel for the appellant relied upon the case **Union of India Vs. Rina Devi** reported in (2019) 3 SCC 572 passed by the Hon'ble Supreme Court saying that mere absence of ticket with such injured or deceased will not negate the claim that he was a bona fide passenger and initial burden on claimant can be discharged by filing an affidavit of relevant facts and after doing so, the burden will shift on Railways and the issue can be decided on the facts shown or the attending circumstances. The police investigation report is also in favor of claimants.

4. On the other hand, learned counsel for the respondent has opposed the submissions of learned counsel for the appellants submitting that the deceased was not a *bona fide* passenger as no travelling ticket was either recovered from the possession of deceased or produced by the claimants. Indeed the Railways found that it is a case of forgery to get the false compensation. According to him, the appeal deserves rejection.

5. Heard the arguments advanced by learned counsel for the parties



and perused the record.

6. On perusal of impugned award, it appears that the learned Tribunal has rejected the claim filed by the appellants/claimants mainly on the ground of non-production of travelling ticket in respect of deceased observing that the claimants have only produced an Identity Card issued by the Railways claiming the same to be a valid ticket. The learned Tribunal also discarded the evidence of Deepak on the ground of his inaction after the incident. The primary question which arises before this Court is as to whether in case of non-availability of travelling ticket, the deceased can be considered as *bona fide* passenger or not ? In this context, the Hon'ble Supreme Court in the case of **Rina Devi (supra)**, has observed as under:-

"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 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."

7. On perusal of record, the affidavit submitted by the claimant- Vijay Singh Gaur reveals that on 11.11.2006, his son Gurmeet Singh went out from the house to go to Durg having Railway Pass. The deceased used to travel from Bhilai to Durg. In the cross examination, said witness stated that the accident was informed to him by Deepak Kumar after 2 to 3 days of accident. The affidavit filed by witness- Deepak Kumar shows that on 11.11.2006, he was traveling with the deceased on train and due to rush and being pushed by the crowd, deceased fell down from the train and later, he came to know about his death. In his cross examination, Deepak has accepted the suggestion that after the deceased falling down from train, no



one had pulled the chain for stopping the train. The merged intimation report was written on the instance of cousin brother of deceased, namely, Ravendra Singh whereupon the police investigated the matter and submitted Investigation Report (Exhibit A/1) dated 15.01.2007, which says that the deceased died due to falling down from the running train.

8. On perusal of DRM report, it appears that the same was prepared on 04.11.2007 and finalized on 18.12.2007 summing the conclusion as under :

"Summing up the evidences on record it is clear that the deceased-Gurmeet Singh Gour was run over in the night of 11/12.11.06 between BPHP-BQR up line near Chadra Moriya talkies by night goods train. No any ticket was found by the local police Bihali Nagar during panchnama of deceased person from the spot. The complaint of Vijay Singh Gour has brought false claim before Rly. administration collecting the ticket No. A23493197 which was issued on 04.11.2006 in the day shift. It is clear case of false claim and a case of forgery. Hence, Railway is not responsible for above claim please."

9. The DRM report shows that the ticket produced by the claimants was issued on 04.11.2006 and same had no nexus with the travelling date i.e. 11.11.2006, but in that regard, the finding given by the learned Tribunal appears to be contrary to DRM report as the learned Tribunal has observed that the same was not a ticket rather an Identity Card issued by the Railways.

10. The statements of claimant- Vijay Singh Gaur further show that the deceased was possessing season ticket. On perusal of ticket produced by the claimants before the Tribunal, it appears that the learned Tribunal has rightly found that the same is not a ticket rather an Identity Card which was valid for a period of seven years. It is known to all that an Identity Card associated with an Indian Railway Season Ticket can be valid for seven years; the season ticket itself is a pass for a specified period, such as, monthly, quarterly or annually and the Identity Card is a separate document that must be presented with the season ticket to avoid being considered as without



ticket.

11. In the light of the judgment passed in the case of **Rina Devi** (supra), this Court has found that since the claimants have filed an affidavit stating therein that the deceased was carrying season ticket and in support, they have filed an Identity Card which was valid on the date of accident, police investigation report and produced the witness Deepak; therefore, the burden shifts on the Railways to prove the contrary. However, in the case at hand, though the Railways had enquired that the Identity Card was issued some months prior to the date of accident but the Railways has not investigated the facts about issuance of such Identity Card being in relation to which season ticket and for what particular period.

12. Further, the record indicates that the accident occurred on 11.11.2006, the claimants have filed the claim before the Tribunal on 16.07.2007 and the DRM report was finalized on 18.12.2007. It is worthwhile to note that as per Rule 6 (2) of the Manner of Investigation of Untoward Incidents Rules, 2020, the DRM proceedings itself were conducted belatedly i.e. after 12 months from the date of incident.

13. In the case of **Kalandi Charan Sahoo Vs. General Manager, South Eastern Central Railway** reported in 2019 (12) SCC 387, the Hon'ble Supreme Court has observed as under:-

"3. Though Rule 27 of the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003 (hereinafter referred to as "the Rules") mandates the Railway Authorities to investigate into such an untoward incident, admittedly, no such inquiry was conducted immediately after the incident. It is only when the appellants filed the claim before RCT on 27-2-2009 that investigation into the incident was ordered on 23-4-2009. According to the Railways, the said investigation revealed that the deceased de-trained from the moving train at D Cabin without stoppage of the train and invited the accident. The claim was rejected on the aforesaid basis and the aforesaid plea of the Railways was accepted by RCT resulting into the dismissal of the claim of the appellants. The appellants



filed the appeal i.e. FAO No. 535 of 2013 challenging the aforesaid order of RCT. The High Court has dismissed [*Kalandi Charan Sahoo v. South-East Central Railways*, 2016 SCC OnLine Ori 1028] the same by cryptic and non-speaking order with the only observations that findings of the Tribunal in the impugned award and the reasons assigned in support of the same, do not warrant any interference.

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5. After hearing the learned counsel for the parties, we find that it is not even necessary to go into the issue as to whether it was the fault of the deceased or that he accidentally fell down. The learned counsel for the appellants has drawn our attention to the provisions of Section 124-A of the Railways Act, 1989, which warrants payment of compensation whenever an untoward incident occurs whether or not such an incident has occurred by any wrongful act, neglect or default on the part of the Railway Administration. **Going by the aforesaid provisions and in the peculiar facts of this case, where no inquiry as mandated by the Rules was conducted immediately after the incident had occurred, we are of the view that the appellants shall be entitled to compensation payable under Section 124-A of the Railways Act, 1989.** We are informed that, at the material time, compensation payable under the said provision was Rs 4 lakhs."

(Emphasis Supplied)

14. Further, in the case of **Bhola Vs. Union of India** reported in (2018)

SCC OnLine Del., the High Court of Delhi has observed as under: -

"4. The claim petition was filed on 27.07.2014, the DRM Inquiry was initiated thereafter and a report was filed 7 months later. The delay in initiating an inquiry is fatal to the facts of the case because what essentially needs to be gathered is what happened on the date of accident. The medical reports and the police records show that an accident happened on 08.10.2012 and the cause of the accident was, the appellant having been fallen from a moving train. The DRM Report does not address any of these aspects. On the contrary it says that since no ticket was produced to support the claim of the appellant, of him being a *bona fide* passenger, therefore by conjecture, he could have well suffered a self-inflicted injury while crossing the railway tracks. Reliance was placed upon the judgment of the Supreme Court in *Kalandi Charan Sahoo v. General Manager, South-East Central Railways, Bilaspur* in Civil Appeal No. 5608/2017.

5. The delay in intimation of the DRM Inquiry, the silence about the specifics of the accident makes the DRM Report of no consequence....."

15. In the light of above judgements, in the case at hand, the DRM report which was filed after a period of 12 months from the accident, is contrary to sub Rule (2) of Rule 6 of the Railways Passengers (Manner of Investigation of Untoward Incidents), Rules, 2020, as such the DRM report is of no use. As per aforesaid Rules, the investigation should have been completed within a period of 60 days from the date of receipt of information regarding accident.



16. The other aspect which cannot be ignored by this Court is failure of Railways functionaries while restraining the gratuitous passengers from boarding on trains. This Court thinks it fit to observe that it is the responsibility of the Railways to ensure that only valid ticket holders are on board. If they fail to detect and restrain a ticketless person from boarding and if that person is injured or dies in an accident, then this would be one of the reasons to held the Railways liable to pay the compensation because the Railways failed in their duty of care, supervision and safety, however, it would be necessary to see that the person was not traveling with any *mala fide* intention and there is no proof that the person was unauthorized. The Railways being a public utility service and an instrumentality of the State, owe a statutory and constitutional duty to ensure the safety and security of passengers traveling on its network. This duty extends not only to operational efficiency but also to the effective implementation of regulatory measures, including preventing unauthorized and ticketless travel.

17. In the present matter, it is evident that the DRM report failed to substantially prove that the Identity Pass dated 04.11.2006 issued to deceased was not associated with any season ticket. The said Identity Pass was valid for seven years. Therefore, in absence of any specific evidence in contrary adduced by the Railways, the deceased can be presumed to be a *bona fide* passenger, having boarded on train with a valid ticket. The police investigation report and statements of claimants' witness- Deepak also indicated so. Mere inaction at the time of accident on the part of said witness is not sufficient to discard the claim of the claimants. The conduct of said



witness may probably be unnatural but not impossible. It is further established that the unfortunate incident leading to death of the passenger/deceased was a direct result of overcrowding may be caused by the unauthorized or ticketless travelers, who were allowed to board and remain in the compartment unchecked.

18. The Railways is obligated under Sections 123(c) and 124A of the Railways Act, 1989, to ensure the safety of passengers and to compensate for untoward incidents including accidental deaths, where negligence or breach of statutory duty is established. The failure of railway authorities to monitor and control the boarding of ticketless passengers constitutes a serious lapse in their duty of care and vigilance, thereby endangering the life and safety of lawful passengers. The sanctity of a ticketed journey must be upheld by strict enforcement of access controls and regular monitoring. Any omission in this regard cannot be condoned, especially when it results in loss of innocent life.

19. It is, therefore, held that such failure amounts to contributory negligence on the part of the Railways Administration. In such circumstances, the legal representatives of the deceased are entitled to just and reasonable compensation under the Railway Claims Tribunal Act, 1987. Accordingly, this Court finds merit in granting compensation to the claimants, recognizing the deceased as *bona fide* passenger and Railway's failure in discharge of its duty to ensure a safe travel environment by preventing the boarding and presence of ticketless passengers on train.

20. In view of the above discussion, this appeal is, thus, allowed setting-aside the impugned award dated 26.04.2011 passed by the Railway



Claims Tribunal, Bhopal, in Case No. O.A. Iiu/209/07 and holding the appellants entitled for compensation to the tune of Rs.8,00,000/- (Rupees Eight Lacs). The amount of compensation be satisfied by the respondent/Railways within a period of eight weeks from the date of receipt of certified copy of this order.

21. No order as to costs.

(HIMANSHU JOSHI)
JUDGE

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