

Rama Devi vs Union Of India on 2 April, 2025

Author: Dharmesh Sharma

Bench: Dharmesh Sharma

* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Judgment reserved on: 11 March 2025
Judgment pronounced on: 02 April 2025
+ FAO 113/2019
RAMA DEVI Appe
Through: Mr. Rajan Sood, Ms. Ashima
Sood & Ms. Megha Sood,
Advs.
versus
UNION OF INDIA Respo
Through: Ms. Arunima Dwivedi, CGSC
with Ms. Pinky Pawar & Ms.
Kritika Shamra, Advs.
CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA
JUDGMENT

1. This appeal has been preferred by the appellant under Section 23 of the Railway Claims Tribunal Act, 1987¹, assailing the impugned judgment dated 21.05.2018, passed by learned Presiding officers of the Railway Claims Tribunal, Principal Bench, Delhi² in the matter 'Smt. Rama Devi vs. Union of India' in claim application bearing No. OA (IIu) 180/2017, whereby the claim application filed by the appellant herein was dismissed.

FACTUAL BACKGROUND:

2. Briefly stated, the appellant is the mother of the deceased, Shri. Ram Ganga. It is the case of the appellant that on 05.10.2016, the deceased, along with his brother, Shri. Umakant was travelling by from 1 RCT Act 2 RCT Tilak Bridge to Okhla by an EMU³ train. It is contended that the deceased had purchased railway tickets for both himself and his brother and had kept the same in his pocket. The record further indicates that while the exact name of the train was not clearly mentioned, it is stated that the brothers commenced their journey from Tilak Bridge Railway Station. However, due to overcrowding, they allegedly boarded different compartments of the train. It was claimed that due to overcrowding and lot of pushing and jostling, her son fell out of a running train and sustained grievous injuries, succumbing to the same.

3. The Respondent Railways contested the claim petition primarily on the ground that the deceased was not a 'bona fide passenger,' as no journey ticket was recovered from his possession while only a black- colored mobile phone and a silver-colored female bangle. The Respondents relied on documentary evidence, including DD No. 31A, which recorded a PCR call from Tilak Bridge Railway

Station regarding an unidentified injured person purportedly having fallen from a train, and who was later admitted to RML Hospital under MLC No. E269689/16 as an unidentified patient, and the attending doctor declaring him "unfit for statement" and injured succumbed to his injuries on 12.10.2016 at 10:05 AM. It was asserted that the injuries sustained were due to his own negligence, an attempt at suicide, or unauthorized trespassing on railway tracks, and not due to any fault of the Railways. The Respondent Railways thus disclaimed liability, contending that the deceased may have been run over while 3 Electric Multiple Unit unlawfully crossing the railway line, and therefore, the Respondent Railways bore no liability for the incident.

4. The learned RCT based on the pleadings of the parties framed the following issues for consideration: -

- "1. Whether the deceased was a bonafide passenger on board the train in question at the relevant time of the incident?
2. Whether the death of the deceased was on account of an accidental fall amounting to an untoward incident, as claimed in the claim application?
3. Whether the applicants are the dependents of the deceased within the meaning of Section 123(b) of the Railways Act, 1989?
4. To what amount of Compensation, if any, are the applicants entitled?
5. Relief, if any?"

ANALYSIS AND DECISION:

5. Having heard the learned counsel for the parties and upon a careful perusal of record, this Court finds that the present appeal is devoid of any merits. It would be expedient to reproduce the reasons accorded by the learned RCT while dismissing the claim petition, which go as under:

- "1) Whether the deceased was a bonafide passenger on board the train in question at the relevant time of the incident?

1. It has been contended in the claim application that on 05.10.2016, the deceased and his brother Shri Umakant were to return to their home after finishing their duties and that the deceased had purchased tickets for himself as well as for his brother and kept the same with him in his pocket. The deceased was also carrying a bag, containing his lunch-box and some other articles. Although it has not been clearly mentioned as to by which train, the two brothers commenced their journey from Tilak Bridge Railway Station for Okhla in an EMU Train, but it was said that the two brothers boarded in the different coaches of the same tram due to train being overcrowded. This has also been affirmed by Shri, Umakant, brother of the deceased, who appeared before this Bench as AW-2 on 28.02.2018.

2. Vide D.D. No. .31-A dated 05.10.2016, it has been recorded that at about 08.50 p.m., an information was conveyed by the Police control Room to GRP/New Delhi regarding one person become injured after suffering a fall from the train. As per D.D. No. 31-A dated 05.10.2015, when S.I. Shri Ashok Kumar reached RML Hospital, New Delhi, to enquire about the case of a patient (deceased), who was admitted there under MLC No,E-259689, he was informed by the doctor that the patient (deceased) was unfit for giving any statement. The patient (deceased) succumbed to his injuries during his treatment in RML Hospital, New Delhi, on 12.10.2016. The MLC case-sheet of the aforesaid hospital makes a mention of one black colour mobile phone and a bangle with the patient, when he was admitted there on 05.10.2016, This leads to an inference that no ticket was recovered either by the police or by the attending doctors/nursing staff of the hospital from the deceased throughout his stay in the hospital from 05.10.2016 to 12.10.2016.

3. Shri Umakant, brother of the deceased, during his cross- examination as AW-2, has said that after alighting at Okhla Railway Station, when he did not find his brother (deceased), he waited for a while and left for his home. He confirms having received the mobile and bracelet after 3-4 days of the post-mortem of his deceased brother, but did not get any journey ticket recovered. If we look on the entire chronological and sequential history of the deceased after his alleged fall from the train on 05.10.2016 at Tilak Bridge till his death in RML Hospital and thereafter, we notice that all along he has been under care and custody of either police (while escorting him to the hospital initially), the doctor and attending staff (in the hospital) and the relations (gone in RML Hospital), who definitely would have Informed about and preserved the Journey ticket secured from the deceased if it existed at all. Non-availability of the railway journey ticket for such along duration although in a safe and secure environment is a pointer to the fact that the ticket was not there at all.

4. Coming back to the cross-examination of AW-2 Shri Umakant, brother of the deceased, it is noticed that Shri Umakant was elder to the deceased by 8-9 years, but as per his deposition, the tickets were purchased and kept by the deceased, who was younger one. This looks a bit awkward, particularly when we notice in the cross examination of the said AW-2 that younger brother (deceased) was said to be inexperienced and generally requiring care and custody of his elder brother always. Further, out of the two persons, each one of them boarding a different coach of the same train at the same time also looks a bit artificial when it is stated to have been due to overcrowding in the train. Had there been a group of 10-12 or more persons, it is understandable that they would get split in different coaches because of the crowd, but it is difficult to imagine that out of the two persons, they also would split themselves as one each in different coaches. Whatsoever may be the extent, of overcrowding in the train, it is always possible to find a place for two persons in one of the coaches of the train. AW-2 Shri Umakant further mentions that after reaching the train at Okhla Railway Station (journey of hardly 20-25 minutes from Tilak, Bridge to Okhla), when he did not find his brother (deceased), he made efforts to contact him on his mobile phone. According to him, the bell was ringing, but nobody was picking the phone. This also appears artificial because soon after the alleged fall of the deceased the train, a message was flashed by a lady (DD No.31-A dated 05.10.2016) and the police had reached to the site of the incident and taken the injured to the hospital. If the call on the mobile phone of the injured (deceased) would ring, surely the police authority, escorting the injured (deceased) would answer the call in their anxiety to know the identity of the injured (deceased). It is seen that even when the injured (deceased) was admitted

in RML Hospital at 10.30 p.m., he was admitted as unknown person. This demolishes the contention of Shri Umakant that he was continuously making efforts to contact his brother on his mobile phone, but the phone would not be picked up. In fact, it was the police, who gave him the first information at around 12.05 a.m. of 06.10.2016 regarding his brother (deceased) having been admitted in RML Hospital. This leads us to strongly believe that Shri Umakant was not contacting his brother (deceased) on the day in question and was not travelling in the same train (though in a different coach as contended by him). The version of the said AW-2 that his younger brother (deceased) purchased the tickets for each one of them, is false and has been introduced only to show that the tickets were bought, though not recovered. The evidence of this witness (AW-2) is untrustworthy and is not corroborated by other circumstantial evidence as explained above. We, therefore, hold that the deceased was not in possession of any ticket at the relevant time of his alleged fall from the train and hence, cannot be accorded the status of a bona fide passenger to the deceased. Issue No. 1 is decided in the negative against the applicants.

2) Whether the death of the deceased was on account of an accidental fall amounting to an untoward incident, as claimed in the claim application?

5. Once we infer that the elder brother Shri Umakant (AW-

2) was not there during the alleged journey of the deceased from Tilak Bridge to Okhla and in view of the fact that there is no eyewitness either who would have seen the deceased sustaining a fall from the train, we find ourselves uncomfortable in inferring that the injured and subsequently the deceased person had met with a fall from the train.

6. In 8 days (from 05.10.2016 to 12.10.2016), when the deceased was in the hospital, the police did not secure any statement of the deceased. There is no information whatsoever even to the railway authorities. All we know is that the deceased was admitted by the police in an injured condition on the strength of DD No.31-A, but there is no corroborative evidence of anybody to affirm that the injuries suffered by the deceased as a result of fall from any train. We, therefore, hold that the plea of "untoward incident" made by the applicant is not established, as defined under Section 123(c)(2) of the Railways Act, 1989. Issue No. 2 is decided in the negative against the applicant.

3) Whether the applicants are the dependents of the deceased within the meaning of Section 123(b) of the Railways Act, 1989?

7. Applicant is the mother of the deceased. To prove her status and identity, the applicant has filed a copy of her Aadhar Card. Hence, we hold that the applicant is the defendant of the deceased within the definition of the Act. Issue No. 3 is answered accordingly.

4) To what amount of compensation, if any, are the applicants entitled?

5)

Relief, if any?

And

8. In the light of our findings on Issues No. 1 & 2, the application is dismissed with no order as to costs.

6. Upon a careful examination of the aforementioned reasoning, this Court finds itself unable to hold that the findings recorded by the learned RCT on facts suffer from any perversity on facts or erroneous application of law. At the outset, it is significant to note that no railway ticket was recovered from the body of the deceased, either at the time when the police took him to RML Hospital or during the examination by the doctors. The testimony of AW-2, wherein he claims to have witnessed his brother purchasing railway tickets, does not inspire confidence. The learned RCT has rightly observed the peculiarity of the situation, particularly given that the deceased, being 8-9 years younger than AW-2/Shri Umakant, was purportedly instructed to purchase the ticket. This anomaly is further compounded by the fact that, during cross-examination, AW-2 himself acknowledged that the deceased was inexperienced and generally required the care and supervision of his elder brother.

7. Furthermore, the assertion that the two individuals, despite traveling together, boarded different coaches of the same train due to overcrowding is not fathomable. While it is conceivable that a larger group of 10-12 persons might have been compelled to disperse across multiple coaches owing to congestion, it defies logic that merely two individuals would have separated in such a manner. Additionally, there exists no cogent evidence to establish the specific train on which the deceased allegedly commenced his journey from Tilak Bridge to Okhla.

8. In any event, even if the deposition of AW-2/Shri Umakant in his affidavit is accepted--that upon arrival at Okhla, he was unable to locate his brother, presumed that he had proceeded home, and subsequently attempted to contact him via mobile phone--it remains unexplained why, if the phone was indeed ringing, neither the police nor the medical personnel at RML Hospital answered the call. This discrepancy further casts doubt on the credibility of the AW-2/Shri Umakant's version of events.

9. The learned RCT has rightly concluded that no eyewitness account is available to establish that the deceased fell from the train. The appellant's plea that the railway ticket was lost in the mishap does not withstand scrutiny, particularly in light of MLC No. E.26989, which records the recovery of a black-colored mobile phone and a bangle from the body of the deceased, yet makes no mention of any railway ticket. The absence of such a crucial document renders it difficult to hold that the deceased was a 'bonafide passenger.'

10. Suffice it to state that the learned RCT found that the appellant had failed to prove that the deceased was a bona fide passenger of the train and although it was the case of an 'untoward incident' as defined under Section 123(c) of the Railways Act, 1989, there is no evidence that the Respondent Railways was responsible for the mishap. Reliance may be placed on the decision of the Supreme Court in *Union of India v. Rina Devi* 4, wherein it was held that "mere presence of a body on the railway premises will not be conclusive to hold that injured / deceased was a bonafide passenger for which claim for compensation could be entertained."

11. In light of the foregoing discussion, this Court finds no illegality, perversity or erroneous approach in the reasoning adopted by the learned RCT while passing the impugned order dated 21.05.2018. Accordingly, the present appeal stands dismissed.

DHARMESH SHARMA, J.

April 02, 2025 SS 4 (2019)3 SCC 572