



2025:DHC:3201



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 29 April 2025**
Judgment pronounced on: 01 May 2025

+ **FAO 275/2017**

VARUN JINDAL

.....Appellant

Through: **Mr. D. Sabharwal & Mr. Shiv
Kumar, Advs.**

versus

UNION OF INDIA

.....Respondent

Through: **Ms. Jatinder Kaur, SPC.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G E M E N T

1. The appellant/claimant has preferred the present appeal under Section 23 of the Railways Claim Tribunal Act, 1987 ('**RCT Act**') thereby assailing judgment cum award dated 27.03.2017 passed by the learned Presiding Officer, Railway Claims Tribunal ('**RCT**'), Principal Bench, Delhi, whereby his claim for compensation for the injury sustained in the railway accident was dismissed.

2. In a nutshell, it was the case of the appellant/claimant that on 27.06.2015, he was travelling in an EMU¹ train from Faridabad to Delhi on a valid MST². He claimed that he was standing near the gate of the general compartment which was overcrowded and suddenly there was a heavy jerk due to which, he lost his balance and fell out of

¹ Electric Multiple Unit

² Monthly Season Ticket



2025:DHC:3201



the moving train and sustained grievous injuries that resulted in amputation of his left leg and other bodily injuries, for which he sought compensation from the respondent.

3. The respondent/Railways contested the claim petition primarily on the ground that the injuries were suffered by the claimant due to his own negligence as he was trying to board a super-fast train and lost balance in the process.

4. The learned RCT based on the pleadings of the parties *inter alia* framed the following issues:-

- “1) Whether the applicant was a bona fide passenger on the train in question at the relevant time of the incident?
- 2) Whether the injuries sustained by the applicant are on account of an untoward incident, as defined under Section 123(c) read with Section 124-A of the Railways Act, 1989?”
- 4) To what amount of compensation, if any, is the applicant entitled?
- 5) Relief, if any?”

5. During the course of the inquiry and legal proceedings, the appellant/claimant examined himself as AW-1 and no witness was examined by the respondent/Railways.

6. Suffice to state that the learned RCT based on the DRM Report exhibited as R-1, held that the injured/claimant was attempting to board a train number 12155 Bhopal Express which was a super-fast train going on line no.3 and despite having the MST, he was not entitled to travel in the super-fast train, and therefore, he was held to be not a *bona fide* passenger. Lastly, it was held that the accident occurred due to his own negligence, and resultantly, the claim was denied.



2025:DHC:3201



7. Hence, this appeal.

ANALYSIS & DECISION

8. Having heard the learned counsels for the parties and on perusal of the record, this Court has no hesitation in holding that the impugned judgment cum award dated 27.03.2017 passed by the learned RCT cannot be sustained in law.

9. First things first, it would be apposite to reproduce the findings recorded by the learned RCT on the issue no.1 which read as under:-

“On the issue of whether the applicant was a passenger, the applicant had tendered evidence that he held a MST pass and boarded an EMU train at Faridabad railway station to go to his workplace in Delhi. At the time of cross-examination, he was asked that the MST was not produced immediately but produced literally a month later. I will find this to be relevant but will go to only see whether the deceased was travelling only by a local train, which the MST authorized him to travel.

In the DRM report, exhibit R-1, which was based on the RPF report and on the entries found in the TSR, it was gathered that the applicant was attempting to board train number 12155 Bhopal Express, which was a super-fast train going on line No. 3. The MST could not be used for travel in a super-fast train and the respondent cited the Railway Manual that provided that season tickets are not valid for travel in unreserved coaches in trains and that further wherever permitted by railway administration, a passenger can travel in unreserved coaches of super-fast trains also. In such a case, he is required to purchase the super-fast surcharge ticket for each journey in advance.

The attempt of the respondent was, therefore, to contend that if he was attempting to travel by a super-fast train without payment of surcharge would be an unauthorized travel and he cannot be regarded *as a passenger*.

The learned counsel for the applicant would state that the TSR produced by the respondent showed that the EMU having train No. 64905 had arrived at Nizamuddin railway station on 7:43 hours and left at 7:46 hours. The Station Master was reported to have received information at 8 o'clock about a fall from the train. It ought to be only by a fall from the EMU train. The same TSR



2025:DHC:3201



showed that train number 12155 super-fast train had passed through Nizamuddin railway station at 7:49 hours and it was not likely that the deceased could have attempted to board the super-fast train.

The TSR also makes it evident that the EMU train came on Line No. 3 and left the station by main Line while the super-fast train came from the main Line at the previous station and received at Nizamuddin railway station on Line No. 3. The RPF report has recorded the fact that the applicant had fallen down and found in an injured condition at the station yard on third line on platform No. 2. This corresponds with the TSR report and also the Station Master's entry in his Diary that some members of public reported that a person had fallen from train No. 12155, super-fast train. Though, the names of members of public are not given, the place where the person had fallen, being Line No. 3, will correspond to the Station Master's diary, the TSR and the RPF report referred to in the DRM report, exhibit R-1. The place where he had fallen obtains relevance to assess if the applicant was attempting to board an EMU train or a super-fast train. If the EMU train had left the station at 7:46 hours and the report of a passenger as having fallen from a member of the public came at 8 o' clock i.e. immediately after the super-fast train had passed through the Nizamuddin railway station, the incident of fall could have taken place only from a super-fast train.

So assessed, the MST cannot be taken as valid in the light of the terms and conditions of season ticket set out above. The counsel for the applicant refers me to a decision of the Hon'ble High Court of Andhra Pradesh in *General Manager, Central Railway and Narayna Rao* that dealt with case of an instantaneous death of a person falling from the train and getting trapped between the platform and the train and the finding of the Tribunal regarding the accident as a result of an untoward incident could not be interfered with. To the same effect was also another judgment of the Hon'ble High Court of Andhra Pradesh in *Union of India versus B. Koddekar & Ors.*, reported in 2003, ACJ, 1286 that a person boarding a running train or alighting from a moving train will both be taken as an untoward incident. I do not think these two decisions have any bearing to answer the situation which I am dealing with. This case is distinct because the facts bring out that the applicant was attempting to board a super-fast train without a valid travel authority. Under the circumstances, he was not a bonafide passenger. The issue is answered accordingly.”



2025:DHC:3201



10. At the outset, the findings recorded by the learned RCT that the appellant/claimant was trying to board the train no.12155 Bhopal Express is purely based on surmise and conjectures, and based on no evidence. There is no material on the record to suggest that the appellant/claimant was trying to board or deboard the said express train. The testimony of AW-1/appellant/claimant is categorical that he had boarded an EMU train from platform no.2 at Faridabad and he fell out due to the commotion and sudden jerk after loosing his balance and sustained injuries.

11. It is borne out from the record that the statement of the appellant/claimant was recorded during the course of the inquiry by the police and he reiterated that he had boarded EMU train from Faridabad railway station from platform no.2 after its arrival, and reiterated that there was lot of commotion and due to sudden jerk he fell out when the train started running and sustained grievous injuries.

12. It is interesting to point out that in the DRM Report dated 10.05.2016 exhibit R-1, the conclusions of the inquiry have been detailed in Hindi script and the translation of which is simple: firstly, indicating that on 27.06.2015, some passengers had informed the Station Master, Faridabad Railway Station that one person had fallen while deboarding train no.12155.

13. It also records that during the course of inquiry, the appellant/claimant was also examined and he stated that on 27.06.2015, he had come to the platform no.2, Faridabad Railway Station to board the EMU train scheduled to arrive at 7.00 a.m. It then records that the EMU train passed through the Faridabad Railway



2025:DHC:3201



Station at about 7.46 a.m. whereas the information about the accident was received at about 8.00 a.m. but for the fact that the train No.12155 Bhopal Express had been passing through the Faridabad Railway Station from third line at 7.59 a.m., it was assumed that he had fallen from the said train. It is, therefore, concluded that the appellant/claimant had sustained injuries due to his own negligence and the Railways was not liable to compensate him

14. Evidently, the DRM Report dated 10.05.2016, exhibit R-1, is neither here nor there and lacks credence. It sets out divergent versions about the incidents. Merely because the train no.12155 passed through the Faridabad Railway Station through line no.3, it is not understood as to how the appellant/claimant sustained injuries adjacent to platform no.2. No witness has been examined by the Railways to suggest that the appellant/claimant was trying to board or deboard the running super-fast train.

15. In view of the above, this Court has no hesitation in holding that the reasons given by the learned RCT in rejecting the claim are absolutely perverse. The plea that the injuries were suffered by the appellant/claimant due to his own criminal negligence is also not fathomable in law. In light of the divergent theories propounded by the respondent, none of which is credible, it is the testimony of the victim that should get precedence. It was clearly a case of the appellant/claimant sustaining injuries in an 'untoward incident'.

16. Lastly, it is a matter of record that the appellant/claimant was having the MST and he used to commute on a daily basis on the same



route for going to his place of work at Kamla Nagar, Delhi. Incidentally, the MST was also verified and found to be genuine.

17. In view of the foregoing discussion, the present appeal is allowed. The appellant/claimant is made entitled to a compensation of ₹8 lakhs with interest at the rate of 12% per annum from the date of accident i.e. 27.06.2015 till its realization, which be paid by the respondent/Railways forthwith.

DHARMESH SHARMA, J.

MAY 01, 2025
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