

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 1315 of 2025

Rumpa Mallick & Ors.

VERSUS

Union of India

For the appellant:

Mr. Sujay Sinha, Adv.

For the Union of India:

Mr. Kalyan Kr. Chakraborty, Adv.
Mr. Subrata Santra, Adv.

Last Heard on: June 10, 2026

Judgment on: June 30, 2026

Biswaroop Chowdhury, J:

The appellants before this Court were applicants in a case under Section 124A of the Railways Act 1987 and are aggrieved by the Judgment and Award dated 16-01-2024 passed by Learned Railway Claim Tribunal Kolkata Bench in claim Application No. OA (IIu)/KOL/142/2020.

The case of the appellants before the Learned Tribunal may be summed up thus:-

On 1/10/2018 the victim came to Baidyabati station and after completion of work he purchased a return journey ticket from Baidyabati to Belur. After completion of his work at Belur he again boarded up Bandel local from Belur at night hours with the same return journey ticket. During the course of journey when the train reached at km post 17/3-17/5 in between Rishra and Serampore Station; the victim who at that point of time stood near the door of the said compartment, accidentally fell down from the train. After the accident being officially informed by station master of Rishra Station which was treated as First Information report, Investigating Officer of Sheoraphuli GRPS. reached the place of occurrence at about 21.55 hrs and started an U/D case and prepared Investigation Report U/S-174 CrPC in the presence of available witness being Sheoraphuli GRPS U/D Case No. 82/18 dt. 01/10/2018. At the time of making inquest one journey ticket was obtained by the investigating officer from the pocket of the victim which in turn was seized and accordingly a seizure list was prepared. Subsequently the dead body was sent with a dead body challan for post mortem. Subsequently after thorough investigation Police Authority submitted final report on 28/02/2019.

Pursuant to filing of claim case notice was issued upon the Respondent/Railway Authority. Respondent Railway Authority contested the case by filing written statement. ISSUES were framed and evidence was adduced. Learned Tribunal by Judgment and Order dated 16-01-2024 was pleased to dismiss the claim case.

The appellants/applicants being aggrieved by the Judgment and Award passed by the Learned Tribunal has come up with the instant appeal.

Heard Learned Advocate for the appellant and Learned Advocate for the respondent perused the evidence adduced and materials on record.

Learned Advocate for the appellant submits that the Learned Tribunal erred in dismissing the claim petition of the appellants when journey ticket was seized from the possession of the deceased in presence of Railway Staffs. Learned Advocate further submits that the initial burden was discharged by the appellant by filing affidavit of relevant facts. Learned Advocate also submits that the seizure of Railway Ticket would go to show that the victim was a bona-fide passenger of train and the incident comes under the category of untoward incident.

Learned Advocate for the appellant relies upon the following Judicial decisions:

Union of India VS Rina Devi.

Civil Appeal No. 4945 of 2018

(Supreme Court of India)

Smt. Yellamna and ors. VS Union of India.

Miscellaneous First Appeal No. 6117 of 2016 (RCT).

(High Court at Calcutta).

Kharka Bahadur Chettri VS Union of India Represented by General Manager Eastern Railway.

FMA-1134 of 2024.

(High Court at Calcutta).

Learned Advocate for the respondents submits that the Railway Authority upon conducting enquiry found that the deceased did not have any journey ticket thus the case does not fall under the category of untoward incident. Learned Advocate further draws attention to Report of post Commander RPF Post/Bally that on receiving information that an unknown male person aged about 35 years lying dead between Rishra and Serampore Station at KM No. 17/3, to 17/5 near LL Gate No. 4B, the officer and staff of RPF OP/SRP and officer and staff of GRPS/SHE attended the spot and found the same. No Railway journey ticket or pass/PTO was found from his possession. Learned Advocate further submits that the said report will go to show that the deceased did not have any journey ticket and the case does not fall under untoward incident.

Learned Advocate also submits that the statement of Shri A.K. Mondal Seizure witness will go to show that the said witness stated that when he signed the seizure list it was blank paper and nothing was written on it. Thus the Learned Tribunal rightly rejected the claim case.

As the matter in issue is whether the appellants/applicants were able to prove that the case was an untoward incident for the purpose of claiming compensation it is necessary to consider Section 124A of the Railways Act 1989.

Section 124A of the Railways Act 1989 deals with compensation on account of untoward incidents.

Section 124A-When in the course of working a railway an untoward incident occurs then whether or not there has been wrongful act neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependent of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall notwithstanding anything contained in any other law be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of or injury to a passenger as a result of such untoward incident.

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to-

- a) suicide or attempted suicide by him.
- b) self-inflicted injury.
- c) his own criminal act.
- d) any act committed by him in a state of intoxication or insanity.

- e) Any natural cause or disease or medical or surgical treatment becomes, necessary due to injury caused by the said untoward incident.

Explanation-For the purpose of this Section 'passenger' includes-

- i) a railway servant on duty and
- ii) a person who has purchased a valid ticket for travellings by a train carrying passengers on any date or a valid platform ticket and becomes a victim of an untoward incident.

The instant case arose pursuant to recovery of dead body from railway track. Investigation was conducted by Railway Authority and by Police Authority. In the report of the Police Authority it was observed that Railway Ticket was recovered but in the report of Railway Authority it was specifically mentioned that no railway ticket was recovered from the possession of the deceased. Due to dispute between report of Police Authority and Railway Authority the matter had to be adjudicated by the Learned Tribunal.

It is to be remembered that in the case of compensation claim before Tribunals or Courts it is also necessary to consider that in case of death of a person by railway accident in a place far from his residence it is not possible to arrange for eye witnesses, thus the applicant has to depend on the report of the Police Authority Railway Authority and his knowledge of the victim travelling in a train.

In the case of Smt. Yellamma VS Union of India FMA-6117 of 2016 High Court at Karnataka the Hon'ble Court observed as follows:

'22. It is not possible for the claimants to examine a person as they have witnessed that the deceased has purchased tickets and also it is not possible for the NC: 2025:KHC:16279 MFA No. 6117 of 2016 claimants to examine a person as eye witness to the incident. If any passenger accompanied his friend or relative, then it may be possible to examine that person as eye witness. But whereas a passenger travels alone along with other stranger passenger, then after the incident and when the claim petition is filed before the Tribunal, it is not possible for the claimant to examine any person as witness to the incident. It is not expected in this regard that the claimants to examine any person as eye witness. Expectation by the railway administration that the claimants should examine eye witness is ridicule on the part of the railway administration and it is wholly unwarranted. What the Railway Department prepares report by the Divisional Railway Manager as stated above certain duties are prescribed on the railway authorities as per Rules 6 to 13 of Rules, 2003 (stated supra).

23. Rules 6 to 13 as above stated impose bounden duty on the officials of railway authorities to perform their duties and discharge their functions when an untoward 24 NC : 2025 : KHC : 16279 MFA No. 6117 of 2016 incident occurs. Therefore, what the railway authorities could do and ought to perform their functions, it cannot be expected from the claimants' side. Therefore, it is not a

rivers burden on the claimants to prove each and every from the claimants, which the railway authorities ought to do.

24. When the respondent-Railway has taken the contention that the claimant has not produced the railway ticket, but certain duties are cast on the Railway as per Rule 4 of Rule, 2003.'

In the case of Union of India VS Rina Devi (supra) the Hon'ble Supreme Court observed as follows:-

'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.'

In the instant case the Appellant A.W. 1 in her examination in chief clearly stated that she learnt from her husband that he will return after completion of work first at Baidyabati and then at Belur. Paragraph-5 of the affidavit states as follows:

‘That I came to know from my husband that he would return home late at night on 1/10/18 after completion of his work first at Baidyabati and then at Belur; but till 1/10/2018 late night my husband did not return home. At night when I tried to call in his mobile phone and then Seoraphuly GRPS received the call and informed me about the incident of accident.’

Although the said witness was cross examined but she stated in cross examination that her husband used to do the job of security guard and reiterated that she got information regarding the incident from GRPS authority. Thus nothing could be shaken in cross examination with regard to deceased returning home and accident taking place between Rishra Station and Seoraphully Station.

Now with regard to recovery of train ticket from the possession of the deceased it will appear from the report of Police submitted to the Learned Magistrate under Section 174 of the Code of Criminal Procedure that it is specifically stated that two P.S. doms searched the dead body and found one railway ticket which was produced by Kartick dom. The name of Kartick dom also appears in the seizure list along with his LTI.

Now with regard to the statement of Lukman Ali, Head Constable RPF/Post/HNZM where he stated that when he signed the seizure list it was blank, whether the statement should be relied upon. The answer is in the negative. The reason is that on Cross examination by Learned Advocate of the applicant it will appear that on the Investigation Report being shown to him he

admitted his signature but at the same time stated that something was written in Bengali which he could not understand. Upon perusal of the Investigation report nowhere it appears that there is any writing in Bengali. Moreover the seizure list and Investigation Report says that Journey Ticket was seized from Kartick Dom and the seizure list also bears LTI of Kartick Dom.

When an investigation is carried out by Police Authority in accordance with law and seizure list is prepared during investigation, the said investigation report and seizure list cannot be discarded without examination of the Investigating officer and in the instant case Investigating Officer was not examined by the respondent.

Thus in the instant case upon considering evidence of A.W. 1 and the report submitted by the Police Authority this Court is of the view that the Appellants have been able to prove that the death of the victim is an untoward incident which entitles them for compensation.

Hence this Appeal FMA-1315 of 2025 stands allowed. Judgment and Award dated 16-01-2024 passed by Learned Railway Claim Tribunal Kolkata Bench in OAS(Ilu)/KOL/142/2020 is set aside. The appellants are entitled to compensation of Rs. 800,000/- from the Respondent along with interest @6% p.a. from date of filing claim case till today. The Respondent shall deposit before Registrar General High Court Calcutta Rs, 800,000/- along with interest @6% per annum within 8 weeks from the date of communication of this order.

The appellants will be entitled to withdraw upon compliance of necessary formalities.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)