

## Union of India (UOI) Vs Radha Devi

**Court:** Delhi High Court

**Date of Decision:** Sept. 22, 2011

**Acts Referred:** Railway Claims Tribunal Act, 1987 " Section 23  
Railways Act, 1989 " Section 123, 124A

**Citation:** (2011) 10 AD 426 : (2012) 2 TAC 677

**Hon'ble Judges:** Valmiki J Mehta, J

**Bench:** Single Bench

**Advocate:** Manoj V. George and Shilpa George, for the Appellant;

**Final Decision:** Allowed

### Judgement

Valmiki J Mehta, J.

The challenge by means of this First Appeal u/s 23 of the Railway Claims Tribunal Act, 1987 is to the impugned

judgment of the Railway Claims Tribunal dated 14.6.2011, and by which judgment, the Railway Claims Tribunal has allowed the Claim Petition of

the Respondent/widow for the death of her son, Sh. Rahul in an untoward incident on 7.12.2009.

2. The facts of the case are that the deceased Sh.Rahul was travelling by train from Delhi Junction to Ghaziabad on 7.12.2009. He fell down from

the train near old Seelampur Fatak/gate resulting in his death whereupon the subject Claim Petition was filed.

3. The Appellant/railways contended before the Railway Claims Tribunal that deceased was not a bonafide passenger of the train in question in

which the deceased was said to be travelling. It was also argued that the deceased was not a bonafide passenger travelling on a valid ticket.

4. The Railway Claims Tribunal has held the deceased to be a bonafide passenger travelling on the train inasmuch as during the Jamatalashi/search

of the body of the deceased, a train ticket bearing No. 42243612 was, in fact, recovered. This recovery is mentioned in two reports/DD entries of

railway police officials. The Railway Claims Tribunal also held that the documents Ex. AW1/7 to Ex. AW1/9, and which documents are: the DD

entry No. 17 dated 7.12.2009, the statement of the Head Constable Sh. Om Prakash and the copy of the brief facts as prepared by the railway

police, quite clearly showed that the deceased had fallen down from a train. The Railway Claims Tribunal therefore held that the deceased was a

bonafide passenger who fell from a train and therefore there was an untoward incident within the meaning of the expression as found in Section

123(c) read with Section 124A of the Railways Act, 1989 consequently statutory compensation was bound to be awarded to the Respondent. An

important aspect noted by the Railway Claims Tribunal was that normally the railway through the DRM conducts an inquiry whenever there is an

untoward incident, but in the present case there was no investigation/verification report of the railways conducted through any agency.

5. Learned Counsel for the Appellant stressed two points before this Court:

i) The first argument was that as per the Guard Memo Book of the train from which the deceased is stated to have been fallen down, shows that

the departure timing of the train in fact was 6.10 P.M. from the Delhi railway station and whereas the first information of the death relied in the case

was received around 5.30 P.M i.e. earlier and consequently it could not be said that the deceased was travelling in the train which is stated in the

Claim Petition.

ii) The second argument was that it has not been established that the deceased in fact fell from the train and that the death is result of a fall from the

train. It is argued that the incident in question has not been proved to be an untoward incident within the meaning of expression as found in Section

123(c) read with Section 124A of the Railways Act, 1989.

6. In my opinion, the judgment of the Railway Claims Tribunal does not call for any interference by this Court as there is no illegality in the same. It

cannot be disputed that the deceased was a bonafide passenger because admittedly during the search/Jamatalashi of the person of the deceased

the ticket was in fact recovered by the Railway officials themselves. The body was lying unattended till the same was searched by the railway

officials and it could not therefore be said that the ticket had been planted on the body. Also, there was no relative or friend or any person who

was personally travelling with the deceased and who had reached the site of the accident before the Railway officials found the body in order to

plant the ticket. Therefore, it is proved beyond all doubt that the deceased in fact had purchased a railway ticket and was travelling as per the

railway ticket making him a bonafide passenger.

7. The only issue then remains is as to whether the deceased in fact fell from a train or not. The Railway Claims Tribunal has relied upon the

documents Ex.AW1/7 to Ex.AW1/9, and which are the documents of the officials of the Appellant being the DD entry, the brief facts and also the

investigation report of the Head Constable which showed that the deceased had fallen from a train. I completely agree with this finding and

conclusion more so because the present is not one of those cases where the deceased was living in and around the area or was having an

office/work place in or around the area where the death by untoward incident took place. Clearly therefore the death would have to be accidental

and because of a fall from the train. The provisions of Section 123(c) and Section 124A have been enacted as a social/beneficial legislation for

social welfare vide Union of India (UOI) Vs. Prabhakaran Vijaya Kumar and Others, . Such provisions have to be interpreted liberally once it is

found that the facts do not show that the deceased died as a result of his own criminal negligence, and only in which case of self-inflicted criminal

negligence can compensation be denied vide Jameela and Others Vs. Union of India (UOI), .

8. At the first blush the argument as raised on behalf of the Appellant with reference to the Guard Report of the train 1 DM seemed to indicate as if

that the deceased did not fall from the local train 1 DM considering that the Claim Petition states that the deceased died by fall from a local train

No. 1-DM whereas the train 1DM had only left the Delhi railway station at 6.10 P.M. and the first report of a person lying dead near the track

was earlier of around 5.30 P.M. However, this confusion in my opinion can very well be explained from the fact that the Respondent/widow was

not travelling in the train with the deceased and also there was no other acquaintance/relative traveling with the deceased in the train and therefore

the widow would have mentioned the train number in the Claim Petition only on the basis of information received. Though the train number could

have been wrongly stated in the Claim Petition, however, considering the balance of probabilities as per which the civil cases has to be decided,

the deceased in fact quite clearly had died on account of a fall from a train in view of the documents of the Respondent's officers themselves being

Ex.AW1/7 to Ex.AW1/9. Therefore, even if one accepts the report of the guard, and which document has been filed and exhibited as Ex.RW1/1

before the Railway Claims Tribunal, yet, on that basis itself it cannot be said that the deceased did not die by a fall from a train. The deceased may

not have died by fall from the specific train as stated in the Claim Petition, however, it has to be held that he died on account of fall from a train in

view of the documents of the Respondent itself being documents Ex. AW1/7 to AW1/9. Credence is very much there of the factum of death on

account of fall from a train, because as already stated, the place of death is neither near the residence nor the work place of the deceased for the

accident to be of any form of criminal negligence/self inflicted injury of wrongly standing on the railway tracks or crossing of the railway tracks.

9. Accordingly, I do not find that the impugned order of the Railway Claims Tribunal requires to be interfered by this Court in appeal for the

Respondent/widow to be denied compensation for death of her son who was a bonafide passenger and who died on account of an untoward

incident of a fall from a train.

10. Dismissed.