

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

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 295 of 2023

Union of India

VERSUS

Armila Majhi & Ors.

With

COT 14 of 2021

Armila Majhi & Ors.

VERSUS

Union of India

For the Union of India:

Mr. Subrata Santra, Adv.

For the respondents/claimants:

Mr. Jayanta Banerjee, Adv.
Mr. Sandip Bandyopadhyay, Adv.
Ms. Ruxmini Basu Roy, Adv.

Last Heard on: September 30, 2026

Judgment on: October 15, 2026

Biswaroop Chowdhury, J:

The appellant before this Court was as opposite party in a case under Section 124A of the Railways Act 1989 and is aggrieved by the Judgment and

Award dated 27-09-2016 passed by Learned Railway Claim Tribunal Kolkata Bench in Claim Application No. OA/IIu/Kol/2015/0083 (Union of India VS Armila Majhi and ors.)

The case of the claimants/Respondents before Learned Trial Court may be summed up thus:-

On 14-09-2014, Kalicharan Majhi was travelling from Madhukunda R/S. to Adra Jn R/S. by train. It was at evening he fell down from the said running train due to overcrowded pressure and sudden jerk in between Madhukunda R/S. and Muradih R/S. As a result he received serious injury on his person and he was taken to Muradih BPHC Purulia and he was referred to B.S. Medical College and Hospital, Bankura but on the way on the same day at about 11.50 p.m he died. The victim was a bona-fide passenger of the said running train.

The Appellant who was an opposite party in the said claim case contested the same by filing written statement.

ISSUES were framed and evidence was adduced. Learned Tribunal upon considering the evidence adduced and upon hearing the Learned Advocates was pleased to dispose of the claim case by observing and directing as follows:-

‘8.7 It has been dictum of various higher forum that if an untoward incident takes place within the meaning of Section 123(C)(2) of the Railways Act initial burden lies on the Railways to prove that the deceased was a not a

bona-fide passenger. It has already been decided that the deceased accidentally fell from the train. The respondent has machinery to detect the unauthorized traveler. The respondent has not led any evidence that the victim was detected as a ticketless traveler during his journey. It is not always conceivable that ticket and other belongings could be recovered after the incident. Therefore examined from any angle an inference can be drawn to the effect that the victim was a bona-fide passenger having regard to realistic and pragmatic approach of the question involved.

8.8. In view of the detailed discussion above it is held that the victim was a bona fide passenger and he accidentally fell from the running train and died. These issues are decided in favour of the applicants.

9.0. In view of decision on the aforesaid issues, the applicants are entitled to get compensation from the respondent railway administration a sum of Rs. 400,000/- which shall be shared among them in the proportion i.e. Rs. 200,000/- to A/1 and Rs. 100,000/- each to A/2 and A/3.

10.1 The applicants are also held entitled to interest @6% p.a. from 11.9.2015 i.e. date of filing claim application till date of this order and thereafter simple interest @9% per annum till date of actual payment.'

The appellant being aggrieved by the Judgment and Award dated 27-09-2016 passed by the Learned Tribunal has come up with the instant appeal. The Respondents/claimants being also aggrieved by the quantum of compensation awarded has come up with a cross-objection.

Heard Learned Advocate for the appellant and Learned Advocate for the respondents. Perused the materials on record.

Learned Advocate for the appellant Union of India submits that the Learned Tribunal erred in considering the issue as an untoward incident although no intimation was given to Railway Authority about accident.

Learned Advocate further submits that witness who took victim to hospital is not examined, neither the co-passenger who took the victim to hospital deposed in Court thus the case of claimants is not established.

Learned Advocate also submits that the Judgment and Award passed by the Learned Tribunal should be set aside. Learned Advocate for the Respondents submits that the victim was unconscious after the accident but alive and as the Railway Authority did not take any steps to remove the victim to any nearby Hospital for treatment the well wisher and/or local people removed the said victim from the place of occurrence to nearby Muzadih BPHC, Purulia for treatment.

Learned Advocate further submits that the widow of the victim deposed in the same way as stated in the claim petition, and although she was cross-examined but she denied the suggestion that her husband was not travelling without ticket and also denied the suggestion that her husband did not fall from the train.

Learned Advocate also submits that the claimants furnished documents such as certified copy of FIR, Investigation Report and Post Mortem Report to corroborate the case. It is submitted that the Railway Authority did not produce Shri Sushil Chandra Jana, Loco Pilot, Chandra Sekhar Mondal, SMR Muradih, the gate man or train guard to prove the case. From the Report of the DRM it is revealed that Sushil Chandra Jana on duty Loco Pilot, noticed one male person was lying near the railway track.

It is also submitted that compensation awarded should be 4 lakh alongwith interest @6% per annum from date of filing claim case or 8 lakh whichever is higher.

The following decisions are relied upon by Learned Advocate for the respondents.

Union of India VS Prabhakaran Vipaya Kumar and ors.

Reported in (2008) 3 SCC Cri-813.

Union of India VS Rina Devi

(2019) 3 SCC. 572.

Union of India VS Dilip and others.

2020(1) TAC. 1(S.C) P-1.

Before proceeding to decide on the issue it is to be remembered that in case of Railway Accident, the family of the victim cannot arrange for witnesses

who travelled with the victim thus the family of the victim have to rely on the Police Report and the DRM report.

In the instant case the wife of the victim who did not witness the accident deposed and relied upon the Police Report and the statement of the witnesses before Police which mentions fall of the victim from running train. The Injury Report of Muzadi BPMC the history of the patient mentions accidental fall from the train. The said hospital Authority also informed the Police about the victim suffering injury due to fall from the train. The post Mortem Report also mentions fall from the train. On perusal of the report submitted by Inspector in Charge RPF Post Burnpur South Eastern Railway to Senior Divisional Security Commissioner RPF/Adra it appears that the victim died due to fall from the train.

Thus considering evidence of AW-1 and the materials on record it is clear that the victim died due to fall from the train and the negligence of victim is no ground under Section 124A of the Railways Act 1989 to deny compensation to the victims family. The Railway Claim Legislation being a beneficial legislation based on the principles of No-fault Liability compensation to victim cannot be denied unless the incident falls under the exceptions of section 124A of the Railway Act 1989.

Now the question for consideration is whether the victim was a bona-fide passenger with Railway ticket.

It is held in different Judicial decision that mere non-availability of ticket is not a ground for refusing compensation to victim family.

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

‘We thus hold that mere presence of a body on the Railway Premises will not be conclusive proof 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. Thus will have to be dealt with from case to case on the basis of facts found.’

In the case of Manju Agarwal and ors. VS Union of India FMA-1133 (High Court at Calcutta) it was observed as follows:-

‘The primary reasoning upon which the tribunals decision rest is the non-recovery of travel ticket was plausibly explained by the admitted fact that the wallet was not recovered as confirmed by the RTI’s response from the GRP. The Hon’ble Supreme Court in the decision cited in Union of India VS Rina Devi (2019) 5 SCC.572 observed ‘Mere absence of ticket with the deceased will not negate the claim.....’

12. The burden shifts to the railways to prove the contrary is set up by the claimant. Furthermore, in Kamukayi and others VS Union of India 2023 SCC Online 642, the Apex Court reiterated that the mere non-recovery of the ticket is not fatal to the claim and plausible explanation hearing such as non-recovery of the wallet justified the legal presumption of bona-fide travel.'

In the case of Anamika Halder VS Union of India.

(FMA 1152 of 2025) it was observed as follows:-

'In many cases of Railway untoward incident where ticket could not be recovered from victim reliance can be placed on oral evidence. Normally a person does not dare to travel without ticket for the fear of being caught and punished. Moreover when a passenger has to face Travelling Ticket Examiner or ticket collector he is bound to produce the ticket but when the person is dead he should not be charged with the allegation that he was travelling without ticket as he will not be in a position to defend himself. A person usually keeps his ticket either in money purse or shirt pocket or pant pocket or inside shirt pocket. Merely because ticket is not found a dead person cannot be said to be a ticketless traveller. In the event there is a reasonable doubt the benefit of doubt should go in favour of the victims family.'

In the facts and circumstances this Court does not find any error on the part of the Tribunal with regard to findings that the death of the victim was an untoward incident.

However with regard to the compensation this Court is of the view that as there is amendment with regard to compensation and considering the fact Railway Claim legislation is a beneficial legislation considering different Judicial Pronouncements the Quantum of Compensation awarded should be enhanced.

Hence this FMA-295 of 2023 read with COT-14 of 2021 stands disposed. The Judgment and Award dated 27-09-2010 passed by Learned Railway Claim Tribunal Kolkata Bench in Claim Application No. OA(IIu)/Kol/2015/0083 stands modified to the extent that the claimants/respondents are entitled to compensation from Appellant Union of India of Rs. 4 lakh alongwith interest @6% p.a. from date of filing claim case till today or Rs. 8 lakh whichever is higher. The respondent shall deposit the compensation amount as observed above before Registrar General High Court Calcutta within 8 weeks from date of communication of this Order. In the event compensation awarded by Tribunal is deposited balance deposit be made.

The claimants/respondents will be entitled to withdraw the compensation 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.)