

Before Railway Claims Tribunal, Ahmedabad Bench.

Coram: Shri. Vinay Goel, Member (Judicial)

CASE No. OA (IIu) ADI/ 2020/0033

Date of Institution: 31.12.2019

Date of Decision: 19.11.2024

Ramnath Rambharose, died on 17.06.2021.

(Father of the deceased, his following Legal Representatives have been substituted and brought on record)

1/1. Lalitkumar Ramnath, Aged – adult.
(Son of the Applicant)

1/2. Juli w/o Amirsingh, Aged – adult.
(Married daughter of the Applicant)
Residing at: Madanpur, Shikohabad,
Dist.- Firozabad, U.P.-205151.

1/3. Ankitkumar Ramnath, Aged – adult.
(Son of the Applicant)

Applicant no. 1/1 & 1/3 are residing at:
Civil Line, Ushanagar, Usra Adda, Po.-Datavli,
Thana- French Colony, Etawah, U.P.-206001.

..... Applicants

-VERSUS-

Union of India Through General Manager,
Western Railway, Church Gate, Mumbai-400020.

..... Respondent

Mr. K.M. Shah, Ld. Counsel for the Applicants.

Ms. K.P. Vyas, Ld. Counsel for the Respondent.

CLAIM FOR Rs. 8,00,000/-

JUDGMENT

Initially this case was filed before this Tribunal by the father of the deceased under Section 16 of the Railway Claim Tribunal Act, 1987 read with sec. 124-A, 125 & 123 (c)(2) of the Railways Act, 1989 seeking compensation of Rs. 8,00,000/- together with interest on account of alleged death of his son Amitkumar Ramnath Kushwaha, aged 23 yrs. (hereinafter referred to as 'deceased') in an alleged untoward incident, on the ground that he was the dependent of the deceased. It is alleged that the deceased was unmarried and during pendency of OA the Applicant i.e. father of the deceased unfortunately died and now his son and daughter i.e. brother and sister of the deceased have been substituted as co-applicants being legal heirs as Applicant no. 1/1 & 1/3 herein after called Applicants.

2. It is the case of the Applicants that on 13.08.2019 the deceased was travelling from Wankaner to Ahmedabad Railway station with a valid Railway travelling ticket bearing no. V- 9697 in a train (not mentioned train name & number). Due to overcrowded situation in compartment, the deceased had no option except to travel in train by standing near to entrance gate. During course of journey, when the train was running between Sabarmati

and Ahmedabad stations, at that time due to a sudden jerk and jolt as well as due to heavy rush and push of the passengers, the deceased lost his balance and accidentally fell down from the running train. Due to said fall he was dragged with the train and sustained multiple grievous crushed injuries on different parts of his body. He was taken and admitted in Civil Hospital-Ahmedabad where during treatment doctors had declared him as dead. It is also averred that said ticket was recovered during preparation of panchnama of bag, which was handed over by someone to Station Master-Ahmedabad on 14.08.2019. After death of the Applicant, his legal heirs have perused the claim application.

3. The Respondent Railway Administration has contested the claim of the Applicants by filing the written statement along with DRM Report, wherein apart from denying all the averments, it is contended; that it is not clear that how and from which train the alleged incident had taken place; that there exist contradiction between statements given by brother of the deceased to GRP and RPF; that as per GRP patravali, the deceased had fallen down from Ahmedabad-Agra Fort express train but Loco Pilot of said train informed station master regarding the deceased lying at the spot; that as per statements of Guard and Loco Pilot of train no. 11463/65, the said train crossed Chandlodiya station at 18:16 and reached Ahmedabad at 18: 38 hrs. and in between there was no information about any untoward incident; that travelling by standing near entrance gate of compartment is not permissible as per the rules of Railway and punishable under the Railways Act, 1989; that the incident happened due to negligence of the deceased and it is covered under proviso (b) & (c) to section 124-A i.e. “*self-inflicted injury*” & “*his own criminal act*”; that on the day of incident no ticket has been recovered during panchnama and on next day the alleged ticket was found so it is unbelievable that after one day of incident unknown person had come and handed over one bag to station master in which alleged ticket was found. Hence, the deceased was not a bonafide passenger and the incident occurred with the deceased is not covered under Section 123 (c) (2) of the Railway Act, 1989 and the Applicants are not entitled to any compensation. On the basis of these and other pleas, dismissal of the claim application has been sought by the Respondent.

4. **Crux of DRM Report:** “घटना के संबंध में प्राप्त दस्तावेजों एवं बयानों के अनुसार मृतक व्यक्ति रेल परिसर में KM No - 498/27 र लाइन सं. 03 के पास घायल अवस्था में पाया गया था जिसके किसी गाड़ी से यात्रा के दौरान गिरने संबंधी कोई ठोस प्रमाण प्राप्त नहीं हुए हैं और न ही घटना का कोई चश्मदीद गवाह है जिससे यह स्पष्ट नहीं हो पाया है कि उक्त घटना कैसे घटित हुई है क्योंकि दावा करता द्वारा जो टिकिट दावा हेतु पेश किया गया है वह टिकिट घटना के समयानुसार यथोचित नहीं है.”

5. Based upon the pleadings of the parties and material made available on record, the following issues were framed:

ISSUES

1. Whether deceased was travelling on a valid Railway journey ticket and was a bonafide passenger of the train in question at the relevant time?
2. Whether the deceased met with an untoward incident due to fall from passenger carrying train, suffered injuries and died as a result thereof and the present case is covered under the definition of Section 123(c) (2) of the Railways Act, 1989?
3. Whether the applicants are the sole dependents of the deceased as mentioned in Para-15 and are entitled to compensation as claimed under Para-16 of the claim application?
4. Relief?

6. Applicant' Evidence: (a) Applicant no. 1/1 Lalitkumar Ramnath has filed his own examination in-chief on affidavit as AW/1 on the lines of stand taken in the pleadings in the OA and he was cross examined as under:

“The deceased was my younger brother. The incident was occurred on 13.08.2019. Police has informed me about the incident. I don't know about the train in which he travelled. Police has taken my statement. I am shown statement at anx. 108-109 which is written in Gujarati language and the signature in below is mine. I do not understood Gujarati language, I just signed as per the instruction by GRP. The police has explained me about the contain of statement but I signed on it due to I was in frighten condition. It is not true that I talked with my brother while he was travelling on mobile phone. I am doing labor work in my village. It is true that my father has filed this claim application as my father was dependent on my deceased brother, my deceased brother was running livelihood of my father as we as we all legal representatives. As my father was taking care of all my family members, he has filed the claim application and I am not joined as dependent.”

(b) Upon insistence of Id. counsel for the Applicants, this Tribunal called Premchandbhai Dhuliyabhai Tadvil PSI/ Devgarh Baria P.S., Dahod and he has stepped into witness box on 06.09.2024 as AW/2 (wrongly mentioned as CW/1).

7. Respondent's Evidence: The Respondent has adduced evidence of Sh. Mehta Vipinkumar Vasantraai as RW/1. In his examination-in-chief he deposed that he was working as a Station Mater from 1999 to 2022 and on the date of incident he was on duty as Station Mater at Ahmedabad station and nobody handed over any unclaimed bag to him nor he gave any alleged bag to GRP. He had produced LPO register and also deposed about procedure to deal with unclaimed article found on the Railway stations. To the query of this Tribunal, he deposed that on 13.08.2019 to 15.08.2019 no unclaimed article had been deposited with the Railway authorities. During lengthy cross-examination, counsel for the Applicants has failed to extract anything in its favour.

8. Documents filed by the parties:

- a. The Applicants filed self-certified copy of ticket at Exh.A/1; Inquest Panchnama at Exh.A/2; Panchnama of Place of Incident at Exh.A/3; Panchnama of bag at

Exh.A/4; NOC for obtaining P.M. report at Exh.A/5; Aadhar card of the deceased at Exh.A/8; Election card, Aadhar card, Pan card, bank details and death certificate of Applicant no.1 at Exh.A/8-12; Election card, Aadhar card, Pan card, residence-cum-photo identification certificate and relationship certificate of Applicant no. 1/1 to 1/3 at Exh.A/14-24; Certificate issued by GRP at Exh.A/25.

- b. The Applicants also filed Post Mortem report, certified by Medical Officer at Exh.A/7; copy of death certificate of Applicant no.1 at Exh.A/13; certified copy of SDM report at Exh.A/26; certified copy of seized travel ticket at Exh.A/27. The Applicants exhibited Train Signal Register (TSR) of Sabarmati station as Exh.A/28 at the time of cross-examination of RW/1.
- c. The Respondent has filed the statutory DRM report along with investigation report and filed a site map, original A.D. case file of GRP and original Lost Property Office (LPO)-book of Ahmedabad station.

FINDINGS

9. This Tribunal has carefully gone through the pleadings of the parties, material made available on record, evidence adduced by both the parties and heard the arguments as well as and gone through the written arguments advanced on behalf of rival parties by their counsels. Findings on the aforesaid issues are as under:-

Issue No. 1 & 2:

10. Both the issues are taken up for consideration simultaneously for sake of convenience and as also they are interrelated

11. At the very outset, I feel it pertinent to reproduce Section 18 of the Railway Claims Tribunal Act 1987 as under :

*“18 **Procedure and powers of Claims Tribunal:** (1) The Claims Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Claims Tribunal shall have powers to regulate its own procedure including the fixing of places and times of its enquiry.*

(2) The Claims Tribunal shall decide every application as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents, written representations and affidavits and after hearing such oral arguments as may be advanced.”

12. The strict provisions of Evidence Act and procedural laws are not applicable to the proceedings under chapter XIII of the Railways Act, 1989 before this Tribunal. But this Tribunal is to be guided by the principles of natural justice, this Tribunal understands that it is the duty of litigant(s) to disclose all the relevant and material facts.

13. It is the specific case of the Applicants that the deceased was travelling in a train with a valid ticket from Wankaner to Ahmedabad and fell down from running train between Sabarmati and Ahmedabad stations. The ticket had been recovered from one alleged bag, handed over to police by Station Master. Whereas the Respondent has come

with plea that the deceased was seen lying by Loco Pilot of train no. 22548 at 16:55 hrs. and another train no. 11463/65 crossed Chandlodiya station at 18:16 hrs. and reached Ahmedabad at 18:38 hrs., so travel in both these trains were not possible hence, the alleged ticket so recovered, is planted ticket.

14. I have carefully perused the material available on record, especially original file of A.D. case no. 79/2019 u/s 174 Cr.P.C. of GRP-Ahmedabad. The date of incident was 13.08.2019. No ticket was recovered on that day. But during preparation of panchnama of bag, a ticket from Wankaner to Ahmedabad bearing no. V-88429697 along with two blue-coloured jeans pant, one white coloured shirt, one light yellow coloured shirt and one sky blue-coloured jeans pant had been found from a bag on 14.08.2019 i.e. next day of incident.

15. It is astonishing and surprising that no identity card or any documents in the name of the deceased had been found from the alleged bag, then how did GRP come to the conclusion that the said bag actually belonged to the deceased, it creates doubt about recovery of the bag and the found therein. The I/O-GRP as AW/2, during his examination and cross-examination made statement on following lines:

“ प्रति-परीक्षा जरिये प्रार्थी अधिवक्ता श्री के एम शाह:

..... प्रश्न: आपका कथन है कि आपको वह बेग, स्टेशन मास्टर ने दिया था और आपको वह बेग किसी अंजान यात्री ने, उनके कार्यालय में आकर दिया था। क्या आपको मालूम है कि स्टेशन मास्टर ने उस बेग के मिलने की प्रविष्टि अपने खोया –पाया रेजिस्टर में की थी या नहीं? यदि उनके द्वारा यह प्रविष्टि नहीं की गयी तो क्यों नहीं की गयी?

उत्तर: स्टेशन मास्टर ने उस बेग की, अपने खोया – पाया रेजिस्टर में प्रविष्टि की या नहीं, मुझे मालूम नहीं है। फिर स्वयं कहा कि मृतक के भाई ने, स्टेशन मास्टर कार्यालय में, लावारिस पड़े हुए कई बेगों में से एक, अपने भाई का बेग पहचान लिया था। इसलिए हो सकता है, उसको रेकॉर्ड में नहीं लिया गया।

प्रश्न: क्या यह संभव है कि वह बेग मृतक के भाई ने पहचान लिया था, इसलिए उसे रेकॉर्ड में नहीं लिया गया?

उत्तर: जी हाँ, ऐसा हो सकता है।

प्रति-परीक्षा जरिये विपक्षी अधिवक्ता सुश्री के पी व्यास:

..... प्रश्न: आपको कैसे पता चला कि वह बेग स्टेशन मास्टर के पास है?

उत्तर: जो अंजान व्यक्ति जोकि मृतक के साथ कोच में यात्रा कर रहा होगा, उसने ही वह बेग स्टेशन मास्टर को दिया होगा। मृतक का भाई स्टेशन पर आया था क्योंकि उसके भाई को आना था। जब वह नहीं आया तब उसने खोजबीन की और स्टेशन मास्टर पहुँच कर, मृतक के बेग की पहचान की।

कोर्ट प्रश्न: क्या आपने पंचनामा में यह बात लिखी है कि मृतक के भाई ने, स्टेशन मास्टर कार्यालय में लावारिस पड़े उस बेग की पहचान की?

उत्तर: जी हाँ, मैंने यह बात पंचनामे में लिखी है।

प्रश्न: मृतक के परिजनों को कब इस बारे में जानकारी प्रदान की गयी – घटना वाले दिन या अगले दिन?

उत्तर: घटना के अगले दिन मृतक के भाई और उसके परिजनों को दिनांक 14.08.2019 को सुबह 08:00 बजे के लगभग, इस घटना के बारे में सूचित किया गया।

प्रश्न: क्या यह बात सही है कि मृतक के पास से उसकी **ID** इत्यादि अन्य वस्तुएं, दुर्घटना के तुरंत बाद मिल गए थे एवं आपने उसके परिवारवालों को उसकी मृत्यु की सूचना दिनांक **13.08.2019** को दी थी ?

उत्तर: जी हाँ, यह कहना सही है कि मृतक के परिजनों को दिनांक **13.08.2019** को घटना के बारे में सूचित कर दिया गया था जबकि मृतक को घायलावस्था में अस्पताल में **admit** किया गया था।”

16. Whereas AW/1 i.e. brother of the deceased, in examination-in-chief and in cross-examination nowhere stated that he or his younger brother identified the said bag or handed over to police. Relevant para of examination-in-chief of AW/1 is as under:

“14 While preparing of the Panchnama of bag, which was handed over by some passenger to the Station Mater of Ahmedabad, on 14/08/2019, the GRP of Ahmedabad had recovered and seized my deceased brother's Original Railway Travelling Ticket baring no. V-9697 (Ex. Wankaner to Ahmedabad, dated 13/08/2016, Second Class, Containing for 01 adult, Fare Rs. 75/-) from the bag. The said fact is also narrated in the Panchnama of bag. Copy of the said ticket is annexed with the claim application under Mark – A/1.”

The contradiction in both statements is clear enough to access over act and enthusiasm of AW/2/a Applicant to justify alleged recovery of ticket. It is quite astonishing that police seized unclaimed bag lying on station as case property without any knowledge of station authority or any proper work at the instance of family of the deceased that too next day of the incident.

17. As per memo of Station Supdt.-Ahmedabad station to SI-GRP/RPF (Annx-143), Loco Pilot of train no. 22548 ADI-GWL Express informed Shahibaug Cabin that an unknown person was lying on Railway track of BG line no.3 at km 498/27. So, fall from a specific train of which train's Loco Pilot gave information, was not possible.

18. There would have been two aspects:

* First Aspect – **Possibility of Travel on Train No. 16734:** On the date of the incident, August 13, 2019 (Tuesday), the deceased was found at approximately 17:15 hrs., between Sabarmati and Ahmedabad stations. According to the train schedule, Train No. 16734 passed through the spot and reached Ahmedabad at 16:55 hrs. However, the ticket issued for the deceased shows a time of 13:34 hrs. The train in question, Train No. 16734, departed from Wankaner at 13:10 hrs., which is before the time of issuance of the ticket. Hence, travel on Train No. 16734 by the deceased was not possible, as the ticket was issued after the train had already departed.

* Second Aspect – **Possibility of Travel on Train No. 11463:** The ticket in question was issued for Train No. 11463, which departed from Wankaner at 14:42 hrs., after the ticket

Train Name		Somnath Jabalpur Exp. via Itarsi	Somnath Jabalpur Exp. via Bina	Okha- Rameshwaram Express
Train Number		*11463	*11465	16734
Class of Accommodation		1A, 2A, 3A, SL, II	2A, 3A, SL, II	1A, 2A, 3A, SL, II, P
From Table No		19A	19A	
Days of Departure at Originating Station		Tu, W, Th, F, Su	M, Sa	Tu
Dep from Originating Station		09 30	09 30	
Kms Ex Mumbai	Okha			--
990		D		07 30
980	Mithapur	D		—
961	Dwarka	D		08 13
920	Bhاتيya	D		08 51
877	Khambhaliya	D		09 27
849	Kanalus	D		—
823	Jamnagar	D		10 17
814	Hapa	D		10 34
804	Aliyavada	D		—
763	Padadhari	D		—
738	Rajkot Jn.	A 13 58 D 14 03	13 58 14 03	12 20 12 30
698	Wankaner City	D —	—	—
696	Wankaner Jn.	D 14 42	14 42	13 10
684	Daladi	D —	—	—
670	Than	D 15 11	15 11	—
644	Muli Road	D —	—	—
622	Surendra Nagar Jn.	D 15 50	15 50	14 13
601	Lakhtar	D —	—	—
557	Viramgam Jn.	D 17 13	17 13	15 43
520	Sanand	D —	—	—
497	Sabarmati	D —	—	—
492	Ahmedabad Jn.	A 18 30 D 18 50	18 30 18 50	16 55 17 15

was issued. This is corroborated by the Guard's Rough General Book, which records the train's departure from Wankaner at 14:47 hrs. The Chief Booking Supervisor of Wankaner has also confirmed that the ticket was issued for Train No. 11463. However, according to the same records, Train No. 11463 arrived at Chandlodiya at 18:16 hrs. and departed at 18:18 hrs. towards Ahmedabad, passing through the location between Sabarmati and Ahmedabad stations. The driver's Note-Book further confirms that the train arrived at Ahmedabad at 18:30 hrs., which makes it impossible for the deceased to travel on Train No. 11463, as the time frame does not match the sighting of the body at 17:15 hrs.

The time table so produced, is not on record but for convenience's sake same has been shown as it is in consonance with TSR

of Shahibaug and the same is on record as Exh.A/28.

Impossibility of travel in above two trains in conjunction with statements of the I/O and examination-in-chief of AW/1 clearly indicates that the ticket in question, had been planted by the I/O in convenience with beneficiary to facilitate case for compensation.

19. Further, as per TSR - Exh.A/28, the train which noticed the incident i.e. 22548, had passed through Sabarmati 'A' cabin (nearest cabin to the incident) at 17:08 hrs. towards Sabarmati station, whereas one train no. 16334 had passed through at 17:03 hrs. towards Ahmedabad station i.e. before passing train no. 22548. But train no. 16734 departed from Wankaner at 13:10 hrs. i.e. before issuance of the ticket, so travel in this was also not possible.

20. Ld. counsel for the Applicant vehemently argued that the ticket had been recovered from bag while preparing panchnama of bag (Exh.A/4) on next day i.e. 14.08.2019. But the Respondent has produced RW/1 with LPO register which reflects that on 13.08.2019

and on 14.08.2019 no such bag had been handed over to Station Mater/Ahmedabad. So, the Applicants opted to produce PSI/GRP/Ahmedabad who prepared a panchnama of bag on 14.08.2019. During his cross-examination he stated that “जो अंजान व्यक्ति जोकि मृतक के साथ कोच में यात्रा कर रहा होगा, उसने ही वह बेग स्टेशन मास्टर को दिया होगा। मृतक का भाई स्टेशन पर आया था क्योंकि उसके भाई को आना था। जब वह नहीं आया तब उसने खोजबीन की और स्टेशन मास्टर पहुँच कर, मृतक के बेग की पहचान की।” When the bag was deposited on next day i.e. 14.08.2019, then how brother of the deceased who searching his missing brother, identified the bag on 13.08.2019? Why was brother of the deceased searching his missing brother on 14.08.2019 and had reached at the Station Mater office, when he had received message of incident on same day i.e. 13.08.2019?

21. If we believe alleged story, the unknown passenger might have given a bag on 13.08.2019 to the Station Mater, but there existed no entry in LPO register. The security protocol would not permit to keep and place any unattended article inside the office of Station Mater. Further date of travel was 13.08.2019, for what purpose brother of the deceased went Railway station on 14.08.2019. If brother of the deceased was present at Railway station on 13.08.2019 to well come his brother, then he would have been aware about name and details of the train in which his brother was travelling. Why police did not record statement of SS and brother. Even name of brother is not mentioned or disclosed who identified the alleged belongings of the deceased.

22. Furthermore, during preparation of panchnama of bag, there were only two clothes and one ticket lying, then how did the IO connect this bag with the deceased person when there was no document related to the identity of the deceased in it? All response as given by AW/2 look-a-like a cluster of confusing and false facts. AW/2 has made unsuccessful attempt to justify his alleged recovery to ticket.

23. So, it is crystal clear that the GRP made deliberate attempt to help the Applicants for setting up the case in favour of the Applicants. As well as, on perusal of original A.D. case file of GRP, it reflects that there is no such final investigation report prepared by IO, on record, it also creates suspicion. The higher authority of Railways should take it seriously and take appropriate action against erring official.

24. Applicant No. 1/1, in his examination-in-chief by way of affidavit, stated that he did not have any knowledge of the train number or name from which his deceased brother had fallen. He further asserted that he had inquired with the police and Railway authorities but was unable to obtain information on this technical aspect. During his cross-examination, he reiterated similar statements. If he or his younger brother was present at the platform to

receive the deceased (as cross-examination of AW/2) they might have knowledge of details of train.

25. However, upon examining the Inquest Panchnama (Exh. A/2), it is recorded that the deceased fell from the Ahmedabad-Agra Express train (as per record train number of Ahmedabad-Agra Express is 12548/22548). Furthermore, the GRP had prepared certain documents under Section 174 of the Cr.P.C., such as the permission for preparation of the Inquest Panchnama (Annexure-142), the request letter for obtaining the post-mortem report (Annexure-129), the dead body handing-over receipt (Annexure-120), and the statement of the deceased's brother, Lalit (Annexure-109). All these documents explicitly have reference of Ahmedabad-Agra Express train.

26. It is, therefore, evident that the GRP had full knowledge of the train involved in the incident. If the Applicants had made reasonable efforts and referred to these documents, the GRP could have provided the train's name and number. Accordingly, the deposition of the Applicant is misleading, lacks credibility, and is liable to be disregarded.

27. The Applicants also raised contention about duty register of RW/1 to prove duty timings. In my view, it doesn't matter who was on duty as a Station Master on that day, more important is that there was no reference of the bag in LPO register, which was maintained by the Railways in its ordinary course of working. The LPO register has several memos from Station Supdt.-Ahmedabad with seal and sign, so said register cannot be disbelieved on the ground that inside printed columns are different. All other contention raised on behalf of the Applicants are nothing but stereotype and useless.

28. Under given set of circumstances, non-recovery of ticket may lead to a presumption of loss of ticket and ultimately resulted into favourable findings on bonafide passenger status. But certainly once ticket has been claimed as a proof of travel authority, it would be incumbent upon the Applicants to link said ticket with alleged travel and this case is full of suspicion. It is ample clear that just to facilitate claim application, ticket had been inducted/planted subsequently with some ulterior motive. Such type of practice would not get any appreciation and is liable to be snubbed.

29. Ld. counsel for the Applicants has quoted various following judgments where in Hon'ble Higher courts ruled that if a person having valid ticket, fell down from train such an incident would cover with the ambit of untoward incident.

1	2017 ACJ 1351	Patna HC	Juweda Khatoon & ors. Vs. UOI
2	2018 ACJ 1441	Supreme Court of India	UOI vs. Rinadevi
3	2023 ACJ 2009	Supreme Court of India	Sanyokta Devi vs. UOI

4	2017(3) GLR 2632	Gujarat High Court	UOI vs. L.B. Sendhane
5	2001 ACJ 871	High Court of Orissa	UOI vs. Jshna Kanhar
6	2013 ACJ 635	Kerala High Court	UOI vs. Parameshwaram pillai
7	2016 (1) TAC 29 (Ori.)	Orissa HC	Sakhia Naik & ors. Vs. UOI
8	2023 ACJ 1659	Supreme Court of India	Kamukayi vs. UOI
9	2010 ACJ 2777	Calcutta HC	Asharani Das vs. UOI
10	CA 8605/2024	Supreme Court of India	Doli Rani Saha vs. UOI
11	2018 ACJ 1460	Supreme Court of India	Kalindi Charan vs. S.E.C. Railway
12	R/FA 111/2016	Gujarat High Court	UOI vs. Shefaliben Vinodbhai Shah
13	2010 ACJ 2453	Supreme Court of India	Jameela & ors. Vs. UOI
14	(2008) 9 527	Supreme Court of India	UOI vs. Prabhakaran Vijaya kumar
15	FA No. 2178/2010	HC of Gujarat	Jayantilal Tandel vs. UOI
16	2011 ACJ 1841	HC of Punjab & Haryana	UOI vs. Sarla & ors.
17	2012 ACJ 126	Bombay HC at Aurangabad Bench	Pooja & ors. Vs UOI
18	2015 ACJ 2060	Madhya Pradesh HC at Jabalpur	Jahangir Khan vs. UOI
19	2015 (4) TAC 835 (All.)	Allahabad HC (Lucknow Bench)	UOI vs. Harbhajan Kaur
20	2012 ACJ 1876	Allahabad HC	UOI vs. Ram swaroop Sharma
21	2014 ACJ 115	Kerala HC at Ernakulam	Jayan & ors. Vs. UOI
22	2013 ACJ 1707	Kerala High Court	Jayalshmi & ors. Vs. UOI
23	2012 ACJ 2109	High Court of Delhi	Vidyawati Vs. UOI
24	FAO 27/2022	High Court of Delhi	Smt. Bindadevi vs. UOI
25	FA 69/2024	Gujarat High Court	UOI vs. Majidkhan B. Pathan

30. All the above judgments are about bonafide passenger, recovery or non-recovery of platform ticket or travel ticket, accidental fall while boarding/de-boarding train, conducting investigation during stipulated time. But in present case this Tribunal has observed that the Applicants have failed to prove genuine recovery of the ticket and has failed to prove fall from specific train and further in this case this Tribunal has come to the conclusion that recovery of the ticket is full of suspicion, so judgments cited on behalf of the Applicants would not be applicable to the facts and circumstances of this case.

31. So, the Applicants have failed to prove travel on said ticket and fall from specific train. Further, it reflects that at the time of filing of OA, Applicants were well aware about timings of train but in a clandestine manner the Applicants opted to plead travel in an unknown train. The application has been filed under chapter XIII of the Railways Act, 1989 which is a piece of welfare legislation and legislature has imposed strict liability upon Railways irrespective of the fact that whether Railway was responsible for negligence or not. Further liberal, pragmatic and sympathetic approach have been expected from the Railway as well as from this Tribunal to deal with such matters. I am of the opinion that under these circumstances the Applicants are also burdened with corresponding duty to approach the court with clean hands. Any manipulation, concealment or over act is required to be dealt with heavy hands.

32. So, in the light of discussions made above, it appears that the Applicants have not come with clean hands and have tried to conceal and manipulate factum of recovery of ticket from a bag on next day. I can rely on the judgment of Hon'ble Supreme court in the case of *V. Chandrasekaran v. Administrative Officer* reported in 2012(4) R.C.R.(Civil) 588 is fully applicable to present case.

“34. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim "Jure Naturae Aequum Est Neminem cum Alterius Detrimento Et Injuria Fieri Locupletiolem", means that it is a law of nature that one should not be enriched by causing loss or injury to another.”

33. So, the deceased was not a bonafide passenger and the incident is not covered under the expression of untoward incident as per sec. 123 (c)(2) of the Railways Act, 1989. Accordingly, issue No.1 & 2 are decided against the Applicants.

Issue No. 3:

34. Sh. Ramnath Rambharose had filed this OA on 31.12.2019 being father/ dependant of the deceased u/s 123 (b) of the Railways Act, 1989 to claim compensation. After death of the initial Applicant on 17.06.2021, his two sons and one daughter had been substituted as Applicants. The Respondent has raised objection that the brothers and sister of the deceased have no right to claim compensation, as these persons cannot be treated as dependants u/s 123 (b) of the Railways Act, 1989.

35. I have considered objection and I am of the opinion that the brothers and sister did not file this claim petition claiming themselves as dependants rather they have come on record by way of substitution after death of original Applicant. The right to sue survived in the legal representatives and it hardly matter that they would not come within the ambit of dependant u/sec. 123 (b) of the Railways Act, 1989. It is important to note that the OA was filed on 03.12.2019 and the Respondent filed its WS on 10.08.2020. In nutshell this Tribunal could not disposed of this petition within expected period of six months after filing of petition and under given circumstances the objection as taken by the Respondent even otherwise is not tenable and present Applicants have every right to pursue claim petition filed by dependant/original Applicant. The father of the deceased would come within the ambit of dependant. Hence, the issue is answered accordingly in favour of the Applicants.

Issue No. 4:

36. In view of my findings on main issue no. 1 & 2 which have been decided against the Applicants, it is held that Applicants are not entitled to any relief or compensation as prayed for. Accordingly, I pass the following order:

ORDER

37. In view of the negative finding on issue no. 1 & 2 the claim application stands dismissed on merits.

38. The Registry is directed to send a free certified copy of this judgment directly to the Respondent and the Applicant(s) at his/her/their postal address mentioned in the claim application by Register A.D. in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

In terms of the above, the present claim application is disposed of. Let this case file be consigned to the Records Room. No order as to costs.

[Vinay Goel]

रेलवे दावा अधिकरण Member (Judicial)

Judgment pronounced and signed in open court today i.e. on 19.11.2024.

Place : Ahmedabad.

Date : 19.11.2024.

अहमदाबाद पीठ

RAILWAY CLAIMS TRIBUNAL [Vinay Goel]

Member (Judicial)

AHMEDABAD BENCH