

Before Railway Claims Tribunal, Ahmedabad Bench

Coram : Shri Vinay Goel, Member (Judicial)

CASE No. **OA(IIu)/ADI/2023/0034**

Date of Institution: 21.07.2022

Date of Decision: 10.01.2024

1. Suman Devi Rajesh kumar Singh, Aged about 40 yrs.
(Wife of the deceased)
2. Saurabh Rajesh kumar Singh, Aged about 21 yrs.
(Son of the deceased)
3. Gaurav Rajesh kumar Singh, Aged about 19 yrs.
(Son of the deceased)
4. Brijbhushan Singh, Aged about 68 yrs.
(Father of the deceased)

All are residing at: D-76 Amar Tenement, Mahalaxmi
Pond Vatva, Ahmedabad-382440.

.....Applicants

Permanent Address: 51, Bhavanpur tekri, Gaya
Bhavanpur, Gaya, Bihar-824236.

-VERSUS-

Union of India Through General Manager,
Western Railway, Churchgate, Mumbai.

.....Respondent

Ms. Rekha Sharma, Ld. Counsel for Applicants.

Ms. R.T. Jain, Ld. Counsel for the Respondent.

CLAIM FOR Rs. 8,00,000/-

JUDGEMENT

This order of mine would deal with an Application filed under section 16 of the Railway Claims Tribunal Act, 1987 read with section 124-A, 125 & 123 (c)(2) of the Railways Act, 1989 wherein Applicants prayed for an amount of Rs. 8,00,000/- as compensation on account of alleged death of RajeshKumar S/o Brajbhushan Singh by caste Sharma, aged 46 years (hereinafter referred to as 'deceased') in an alleged untoward incident, on the ground that they are the dependents of the deceased.

2. It is the case of Applicants that, on 16.08.2021 the deceased went to receive his relative at Vatva station but he didn't come back home. He died after being hit by a train and was found lying on the line no.2 of Vatva station and had collusion with a train that was passing through Vatva station. The deceased sustained serious injuries resulting into his death. The Applicants being dependents are entitled to the compensation.

3. The Respondent Railway Administration has contested the claim of the Applicants by filing the written statement along with the DRM Report, wherein apart from denying all the averments, it is contended; that as per certified letter by CBS-Vatva, no Platform ticket had been issued between 00:00 hrs. to 07:05 hrs. on 16.08.2021; that dead body of the deceased was found at common loop line of Platform no.02 of Vatva station at km.no. 487/2281-2283 in cut off situation (decapitated state); that such situation may arise only in cases wherein the person tries to commit suicide; that contradictory statements made by Applicant no.1 herein with regard to the reason for deceased's visit towards Vatva station. Hence, it has been contested that the deceased was neither bonafide passenger of any train nor he had fallen down from any running train, it is a case of suicide and therefore, in the light of the above mentioned contentions, the Respondent Railway cannot be held responsible for the said act of the deceased and the said act does not come under the purview of untoward incident hence, the Applicants are not entitled the compensation and the claim may be dismissed.

4. **Crux of DRM Report:** “मृतक के परिजन/दावाकर्ता द्वारा RPF के जाँच अधिकारी को दर्ज करवाये कथन में मृतक राजेश कुमार द्वारा अपने रिश्तेदार को लेने हेतु अपने घर से सुबह जल्दी उठकर जाना बताया है किन्तु RPF के जाँच अधिकारी द्वारा वटवा बूकिंग पर्यवेक्षक से दिनांक 16.08.2021 को प्लेटफॉर्म टिकट जारी किए जाने की जानकारी मांगने पर बूकिंग पर्यवेक्षक द्वारा उक्त दिनांक को कोई भी प्लेटफॉर्म टिकट जारी नहीं किये जाने बाबत लिखित में दिया है से यह स्पष्ट है कि मृतक अपने किसी भी रिश्तेदार को लेने हेतु नहीं आया था बल्कि आत्महत्या करने के इरादे से रेल क्षेत्र में अनधिकृत रूप से प्रवेश किया था।

निष्कर्ष मृतक राजेश कुमार ने अनधिकृत रूप से रेल क्षेत्र में प्रवेश कर चलती मालगाड़ी के नीचे लेट कर आत्महत्या किया है। ”

5. Based upon the pleadings of the parties and material made available on record, following issues were framed on 14.08.2023.

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 and are entitled to compensation as claimed, as per Section 123 (b) of the Railways Act, 1989?*
4. *To what Relief?*

6. **Applicants Evidence and Respondent Evidence:** Applicant No. 1 filled her affidavit as AW/1 and was cross-examined on 01.01.2024.

7. **Respondent Evidence:** The Respondent Railway administration did not adduce oral evidence, however bank upon its DRM report and documents annexed there to.

8. **Documents filed by the parties:**

a. The Applicants filed certified copies of:

Inquest Panchnama at Exh.A/1; Panchnama of place of incident at Exh.A/2; P.M. report at Exh.A/3; Passbook of Applicants at Exh.A/4-7; Aadhar card and Election card of Applicant no.1 at Exh.A/8-9; Aadhar card of Applicant no.2, 3, & 4 at Exh.A/10-12; Election card of Applicant no.4 at Exh.A/13; Death certificate of mother of the deceased at Exh.A/14; Rent agreement at Exh.A/15; Original Notarized affidavit in respect of Applicants' name and surname at Exh.A/16.

b. The Respondent filed original DRM report with Investigation report under the statute and also filed translation of IR as Exh.R/1.

9. At the time of arguments, the Ld. Counsels for parties argued as under:

“Counsel for the applicants submitted that the deceased went to Railway station to receive his relatives and he purchased valid platform ticket and accidentally dashed by some train. So the applicants being dependents are entitled for compensation. She further submitted that the platform ticket was lost in the incident and Railway failed to produce any evidence. She further submitted that the DRM Inquiry conducted after 1.5 years of filing of this claim application.

Counsel for the Respondent submitted that deceased was runover by any train at midsection near LC Gate while crossing the track and he was not on the platform. She further submitted that wife of the deceased gave statement to the RPF during the inquiry that the deceased used to go for morning walk daily and the such facts have also been admitted by the applicants during the cross examination. She further submitted that the applicants filed this case on false facts and no platform ticket was issued on the date of incident and she has relied upon verification documents produced on record with this regard.”

FINDINGS

10. I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them and heard the arguments advanced on behalf of rival parties by their counsel. My findings on the aforesaid issues are as under:

Reasoning of Issue No. 1 & 2 for the judgment:

These two issues are being taken up for consideration simultaneously for sake of convenience and as also they are interrelated.

11. It is the case of the Applicants that the deceased went to Railway station to receive his relative at Vatva station but he did not come back home and he was found lying dead on loop line no.2 of Vatva Railway station and had a collision with a train which was passing through Vatva station. It is the case of Applicants the deceased purchased a platform ticket which was lost during the incident.

12. Whereas the Respondent has contested this case as a case of run over while crossing Railway track. Having heard both the sides and after perusal of material on record, my answer to both the issues is in negative due to following reason:

- (i) Admittedly body of the deceased was not found on platform. If he went there to receive someone coming from a train, deceased should have been at the platform and incident should have been occurred at the platform.
- (ii) The Applicants have failed to disclose details of alleged relatives who were coming in the train and whether said relatives came or not and further details details of the train in which they were to come and what was the original and destination station of alleged travel of relatives, has also not been disclosed.
- (iii) Incident had occurred before platform in mid-section at km.no. 487/2281-2283 no person would be on that place if he had come to receive somebody on platform.
- (iv) As per the DRM report and Certificate from Vatva Railway station no platform ticket has been sold in that from 00:00 hrs to 07:05 hrs., so purchase of platform ticket does not arise.
- (v) At the time of DRM enquiry, the Applicants gave following statement on 21.06.2023: (Important to note that during cross-examination AW/1 admitted her signature on this statement.)

“प्रश्न- क्या आप बता सकते हैं कि आपके मृतक पति दिनांक 16.08.2021 को कौनसे रिश्तेदार को लाने हेतु गए थे और वो कौनसी ट्रेन से वटवा आ रहे थे इसे स्पष्ट करें?

उत्तर- इस बारे में मुझे एवं मेरे दोनों पुत्रों को कोई जानकारी नहीं है और ना ही मेरे पति ने मुझे बताया था।

प्रश्न-आपके मृतक पति राजेश कुमार सिंह क्या काम करते थे?

उत्तर-टेक्स्टाइल कंपनी जी.आई.डी.सी. वटवा में काम करते थे।

प्रश्न-आपके पति किसी बीमारी से ग्रस्त या मानसिक तौर पर बीमार रहते थे क्या?

उत्तर-नहीं ऐसा कुछ नहीं था।

प्रश्न-उक्त घटना के संबंध में दिनांक 24.10.2021 को राजकीय रेलवे पुलिस अहमदाबाद के समक्ष आपके द्वारा दिये गए कथनों में आप सभी ने बताया है कि मृतक सुबह 05 बजे मॉर्निंग वॉक पे घर से निकले थे

और करीबन 07 बजे तक घर वापिस नहीं आए थे जबकि उपरोक्त दिए गए कथनों से अलग कहानी है जो विरोधाभास प्रकट करती है इसे स्पष्ट करें?

उत्तर- हाँ यह सही है कि मैंने राजकीय रेलवे पुलिस अहमदाबाद के पुलिस स्टाफ को पूछताछ के दौरान यह बताया था कि उक्त दिनांक को मृतक हमेशा की तरह सुबह 05 बजे मॉर्निंग वॉक पे घर से निकले थे और बाद मम्मी (सुमन देवी) ने बताया कि वो किसी रिश्तेदार को लाने गए थे परंतु कौनसे स्टेशन गए उसके बारे में कोई जानकारी नहीं है।

प्रश्न- अपने जो रेलवे से 8,00,000/- आठ लाख रुपये का दावा की मांग की है वह किस आधार पर की है इसे स्पष्ट करें?

उत्तर- मृतक व्यक्ति के साथ उक्त घटना ट्रेन से घटित हुई है इसलिए हमने रेलवे से दावा कि मांग की है।

प्रश्न-मृतक के पास कोई प्लेटफॉर्म टिकिट या रेलवे यात्रा से संबंधित अधिकृत अधिकार पत्र था। इस बारे में बताये?

उत्तर-इस बाबत हमें कोई जानकारी नहीं है। ”

(vi) During cross-examination of AW/1, she deposed that:

“मुझे नहीं पता कि मेरे पति घर से कितने बजे निकले थे। मैं केस में या कहीं भी हस्ताक्षर करती हूँ तो समझ के करती हूँ। गवाह को OA तथा statement तिथि 21.06.2023, दिखाये गए। दोनों पर गवाह ने अपने हस्ताक्षर स्वीकार किए हैं। मेरे पति हर रोज सुबह 5 बजे सैर के लिए निकलते थे। मृत्यु से लगभग 1 महीने पहले से वह हर रोज शौकिया सैर को जाते थे। जहां यह दुर्घटना घटित हुई वहाँ से हमारा घर, नजदीक में ही है। पैदल चलने पर 10-15 मिनट का रास्ता होगा। मैंने यह हादसा अपनी आंखों से घटित होते नहीं देखा। यह बात ठीक है कि मेरे पति ट्रेन से कोई यात्रा नहीं कर रहे थे और यह कहना भी सही है कि हमने किसी रिश्तेदार का कोई नाम नहीं लिखा है जिसको मेरे पति ट्रेन से लेने जा रहे थे। और न ही उस रिश्तेदार के कोर्ट में पेश किया है एवं न ही उस रिश्तेदार का कोई टिकिट प्रस्तुत किया है। यह गलत है कि हमने कोई साक्ष्य इसलिए नहीं पेश किया क्योंकि मेरे पति सैर को जाते हुए दुर्घटनाग्रस्त हुए थे। फिर स्वयं कहा कि रात को उन्होंने बताया था कि सुबह स्टेशन में किसी को लेने जाना है। मैं नहीं कह सकती कि वह स्टेशन पहुंचे ही न हो और रास्ते में दुर्घटनाग्रस्त हो गए। यह

कहना गलत है कि मैंने झूठा मुकदमा दायर किया हो। मेरा बयान जो 21.06.2023 का है, वह Exh.R/1 है एवं उस पर मैं अपने हस्ताक्षर को स्वीकार करती हूँ। ”

- (vii) In the said statements the Applicant admitted that her husband used to go on morning walk at about 05 in the morning and place of the incident is nearby their resident and by foot one can reach within 10-15 minutes. Even in initial statement friend of the deceased (name) also gave statement that son of the deceased came to his home and disclosed that his father has been run over by some train while crossing the Railway track.
- (viii) There was no averment in the statements made on the date of incident that the deceased went there to receive someone at the Railway station.
- (ix) The body was found on loop line of near LC gate of Vatva station, where no passenger train would stop or run on loop line. So accident might have been occurred while trespassing the Railway track.
- (x) Even photograph, taken on the day of incident at the place of incident, attached with the DRM report is pasted here for revealing the spot:



The above captured photograph reflects that it was not a case of untoward incident but death happened due to some other reason.

- (xi) Owing to admission in the statements given Railway police and during cross-examination it appears that after accident and death as an afterthought just to claim compensation, the Applicants have concocted a story about purchase of Platform ticket and visit of the deceased to Railway station to receive some relatives. Non-production of any relative and non-disclosure of any such details about alleged relative would go against the Applicants. Further on the day incident no platform ticket was sold by Railways at Vatva Railway station. It would tantamount to withholding best evidence available with them. Accordingly adverse inference can be drawn. The Applicants have failed to prove on record any travel, purchase of Platform ticket and accidental fall from any train during travel or boarding/de-boarding, rather the circumstantial evidence and material on record reflects that it was a clear case of run over while crossing the track during the course of morning walk. So both these issues are accordingly replied in negative and are decided against the Applicants.

13. So the deceased cannot be considered as bonafide passenger and fall on the floor of a platform due to fainting would not be treated as untoward incident as defined u/s 123 (c)(2) of the Railways Act, 1989. Accordingly both the issues are decided against the Applicants and in favour of the Respondent.

Reasoning of Issue No. 3 & 4 for the judgment:

14. The claim has been filed by the wife, two minor daughters and parents of the deceased and they deposed that they all are dependents of the deceased. In support thereof they filed documents regarding dependency at Exh.A/8-16.

15. There is no dispute about relationship of the Applicants with the deceased and the Respondent has failed to counter the documentary evidence produced by the Applicants. The Applicants are dependents of the deceased and they have every locus to file this petition under Section 16 of RCT Act, 1987 read with Section 124A and 125 of Railways Act, 1989. This issue is decided accordingly.

16. In view of our 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, we pass the following order:

ORDER

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

18. 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.

19. 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]
Member (Judicial)

Judgment pronounced and signed in open court today i.e. on 10.01.2024.

Place : Ahmedabad

Date : 10.01.2024.

[Vinay Goel]
Member (Judicial)