

Before Railway Claims Tribunal, Ahmedabad Bench

Coram : Shri Vinay Goel, Member (Judicial)
Shri Raj Kumar Manocha, Member (Technical)

CASE No. OA(IIu)/ADI/2022/0037

Date of Institution: 30.06.2022

Date of Decision: 25.04.2024

1. Kalpeshkumar Gunavantlal Shah, Aged - 57 yrs.

(Husband of the deceased)

2. Himanshu Kalpeshkumar Shah, Aged - 27 yrs.

(Son of the deceased)

Both are residing at Kapasiya Hall, Palej (ct),

Bharuch, Gujarat - 392220.

.....APPLICANTS

-VERSUS-

Union of India Through General Manager,

Western Railway, Churchgate, Mumbai-400020.

.....RESPONDENT

CLAIM FOR Rs. 8,00,000/-

Mr. N.R. Kapade, Ld. Counsel for the Applicants.

Ms. Ruchita Jain, Ld. Counsel for the Respondent.

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JUDGEMENT

This OA has been filed by two Applicants i.e. husband and son of the deceased under section 16 of the Railway Claim Tribunal Act, 1987 read with section 124 - A, 125 & 123 (c) (2) of the Railways Act, 1989 for compensation from Respondent Railway on account of alleged death of Sh. Varshaben W/O Kalpeshbhai alies Kalpeshkumar Shah, aged - 53 yrs. (hereinafter referred to as 'deceased') in an alleged untoward incident during alleged train journey, on the ground that they are the dependents of the deceased.

2. Basic details relating to accident as contained and alleged in the Application:-

a) **Date of accident:** 02.05.2022

b) **Person Deceased:** Varshaben W/O Kalpeshbhai alies Kalpeshkumar Shah, aged - 53 yrs.

c) **Relationship of the Applicant Nos. 1 and 2 with the deceased:** Husband and Son of the deceased respectively.

d) **Train involved and transit details:** The deceased was travelling by train No. 69109 and 09315 Vadodara - Ahmedabad Memu from Palej to Anand railway station with a proper railway travelling ticket bearing No. A 89671530.

e) **Untoward incident narrated:** During the course of journey, deceased accidentally fell down from the running train at Vadodara Yard near K.M. No. 398/22. She sustained injuries and died on the spot. (Details given in Para – 11 of the Judgment herein below not mentioned here to avoid repetition)

f) **Jurisdiction:** The place of incident was Vadodara Yard, this Bench of the Tribunal has territorial jurisdiction.

3. Salient features of reply:

a) **Averments in reply:** The deceased was not a bonafide passenger. Respondent denied this Untoward Incident and its Liabilities to pay compensation as there was no eye witness of the incident. The Respondent denied its liability on account of decomposition of body and refuted probability of travel as claimed in the OA and further, pleaded that ticket was planted and also denied occurrence of untoward incident. Detailed facts have been given in Para – 12 of the Judgment herein below and not mentioned here to avoid repetition.

b) **Crux of DRM Report:** “मामले के संबंध में जांच पड़ताल एवं एकत्रित दस्तावेजों का अध्ययन करने पर पाया गया कि मृतक महिला के पास से सामान्य दर्जे की टिकट संख्या **A 89671530** (पालेज स्टेशन से आनंद स्टेशन तक दिनांक 01.05.2022 को आमय 17/51 बजे पालेज स्टेशन से जारी) प्राप्त हुई है प्राप्त टिकट पर नियमानुसार 03 घंटे में पाहली ट्रेन से यात्रा करना लिखा हुआ है। इस आधार पर टिकट जारी होने के 03 घंटे के अंदर सवारी गाड़ी संख्या 09155 मेमू में यात्रा करना ही संभव है, क्योंकि टिकट जारी होने के पश्चात 03 घंटे के अंदर प्रथम सवारी गाड़ी 09155 मेमू है अन्य सवारी गाड़ी पालेज स्टेशन पर नहीं रुकती है। अतः सवारी गाड़ी दिनांक 01.05.2022 को पालेज स्टेशन से समय 19/49 बजे रवाना होकर वडोदरा स्टेशन पर समय 21/21 बजे खेरियत से पहुंची थी तथा विषयांकित घटना अगले दिन दिनांक 02/05/2022 को लगभग 12 घंटे पश्चात आमय 09/40 बजे वडोदरा यार्ड से दिन के समय प्रकाश में आयी है इस समय के दौरान वडोदरा स्टेशन के परिचालन के दौरान अप-डाउन लाइन पर वडोदरा से अहमदाबाद व रतलाम की ओर जाने वाली व वडोदरा को आने वाली लगभग 70 ट्रेन पाई गयी। लेकिन किसी भी लोकोपायलोट, रेल्वे कर्मचारी या अन्य व्यक्ति द्वारा सूचना नहीं दी गयी। यदि घटना एमू ट्रेन से गिरने के कारण हुई होती तो गार्ड, लोकोलयलट या किसी यात्री व रेल कर्मी व्यक्ति द्वारा यकीनन देख सूचना दी जाती।

अतः स्पष्ट है कि उक्त घटना न तो मेमू संख्या 09155 से और न ही किसी अन्य ट्रेन से घटित हुई है क्योंकि घटना दिनांक 02/05/2022 को समय 09/40 बजे प्रकाश में आई व पोस्ट मोर्टम के अनुसार मृत शरीर डिकम्पोस अवस्था में पाया गया था। इससे स्पष्ट होता है कि मृतक महिला नाम वर्षा बेन पत्नी कल्पेश कुमार शाह ने किसी भी ट्रेन में यात्रा नहीं की तथा जांच रिपोर्ट के अनुसार मृतक महिला का शव की तलाशी में दिनांक 01/05/2022 को जारी रेल यात्रा टिकट का पाया जाना संदेहास्पद/आपराधिक तरीके से प्रकरण में शुमार किया है मृत अहिला का शरीर को रेल लाइन के पास पाया गया जिससे यह स्पष्ट होता है

कि घटना रेल्वे क्षेत्र में घटित नहीं हुई है क्योंकि उक्त घटना में **PM** रिपोर्ट के अनुसार डेड बॉडी डिक्म्पोस अवस्था में पाई गयी थी। इससे यह स्पष्ट होता है की महिला के मृत शरीर को घटना प्रकाश में आने से कुछ समय पूर्व रेल यात्रा टिकट के साथ रेल्वे क्षेत्र में लाकर रखा गया है ताकि रेल्वे प्रशासन को गुमराह करते हुए आपराधिक गतिविधि को छुपाया जा सके। मृतक महिला कि तलाशी में पाया गया सामान्य दर्जे कि यात्रा टिकट संख्या **A 89671530** (पालेज स्टेशन से आनंद स्टेशन तक दिनांक 01.05.2022 को आमय 17/51 बजे पालेज स्टेशन से जारी) तथा घटना की प्रकृति संदेह के दायरे में है।”

4. From the pleadings, following issues were framed on 10.01.2023.

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?

5. Applicants Evidence and Respondent Evidence: Applicants no. 2 has filled his affidavit as AW/1 and he was cross-examined on 20.04.2023 by the Respondent.

6. Documents filed by the parties.

Applicant file certified copy of:

Memo - Exh.A/1, Vardhi - Exh.A/2, Inquest Panchnama - Exh.A/3, Panchnama of place of incident - Exh.A/4, Post Mortem Report of deceased - Exh.A/5, Railway Journey Ticket - Exh.A/6, Aadhar card and Pan card of App. No. 1 and 2 - Exh.A/7 to Exh.A/10, Aadhar card of deceased - Exh.A/11, Bank Pass Book of App. No. 1 and 2 - Exh.A/12 to Exh.A/13, Ration card of deceased - Exh.A/14.

Respondent has opted to not to adduce any oral evidence but has relied upon its DRM Report & Documents next thereof.

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

Counsel for the Applicants submitted that husband and unmarried son of the deceased have filed this OA for compensation. Whereas, deceased on 01.05.2022 was travelling on a valid ticket from Palej to Anand. During course of journey, she accidentally fell and died but her body was recovered on the next day. Ticket was also recovered from the body of the deceased. He further submitted that body could not be recovered in the night because there was no patrolling in the night. The Applicants are being dependent and are entitled for the compensation.

In reply Counsel for the Respondent submitted that on alleged ticket no journey in the train No. 69109 was possible. As after purchase of ticket, there was only one train was available to the passengers having halt at Palej that is 09155. So journey was not possible on the alleged ticket. The train having scheduled stoppage at Palej, started from Palej at 07:49 p.m. and reached Vadodara at 09:21 p.m. and no incident has been reported by any staff or the passenger in the same rout. The body was recovered at 09:40 a.m. and in between about 70 trains passed through the place of incident and nobody reported about any dead body lying on the track. The Respondent denied bonafie passenger status and untoward incident. The Respondent is not liable play any compensation.

In rebuttal Counsel for the Applicants submitted that there was no patrolling in the night and further AW/1 had deposed that he went to the railway station to see off his wife. To query by this Tribunal whether family reported the matter to the police when lady did not return to home in the night. The Counsel for the Applicant submitted that accept the phone a call to the sister of the deceased, no any other effort were made by the Applicants. He further submitted that there was heavy rain fall on that day and body was decomposed.

FINDINGS

8. We have carefully gone through the pleading of the parties, material made available on record evidence adduced on behalf of the parties and heard the arguments advanced on behalf of rival parties by their counsel. Our findings on the aforesaid issues are as under.

Regarding Issue No. 1 & 2

9. Issue no. 1 and 2 are being taken up together as they interconnected. Our findings on the issues are as under:

10. We have heard both the sides and also gone through the records. We would like to address issue No. 2 first, keeping in view peculiar facts gathered from the documents and proved on records.

11. It is the case of the Applicants that deceased on 01.05.2022 purchased a valid ticket from Palej to Anand and boarded train No. 69109. During course of journey she accidentally fell down and died on the spot. The relevant portion of pleading is reproduced as under:-

“We the Applicants, being a Husband & Unmarried Son of the deceased Lady Passenger my Wife/Mother as under that:

On 01.05.2022 My Deceased Wife/Mother Varshaben Kalpeshbhai Shah was going from Palej Rly to Anand Rly Stn.

On 01.05.2022 in Evening he had started her Journey by Memu Train Ni. 69109 DN. Applicant Ni. 1 came to drop her on Palej Rly Stn. she was going from Palej Rly to Anand Rlt Stn.

Then the same Train Run towards Ahmedabad Rly Stn. After 15 to 20 minutes Time. As which change Train No. 09315 Vadodara – Ahmedabad Memu Train. Time Table of the said Train is produced as Annex. A-14. In the claim Application.

As On 01.05.2022 as the Train reached at Vadodara Rly Yard near KLM No. 398/22. She was accidentally Fallen down from the Running Train and sustained injuries. And died on the spot.

*She was bonafide passenger. **THE SAID journey TICKET IS ATTACHED FOR THE PURPOSE OF INVESTIGATION.** And Railway Police had given the certify of the same to we Applicants.*

On 02.05.2022 my Deceased Wife/Mother dead-body was found in the Railway Yard.

After that in Dt, 02.05.2022. in Morning”

12. The Respondent appeared and filed its Written Statement and denied its liability. The Respondent denied bonafide passenger status and occurrence of untoward incident. Further, it is pleaded that as per DRM Report in 020.05.2022 on duty Key-man informed around 09:40 a.m. to Station Master/Vadodara that one dead body of a female was lying at K.M. No. 398/22 near Vadodara Yard, D Cabin near railway line and during search one ticket bearing No. A 89671530 dated 01.05.2022 issued at 05:51 p.m. for Palej to Anand was recovered from the body of the deceased. It is pleaded that it is categorically mentioned on the ticket to commence journey within 3 hrs. or departure of first train. After issuance of ticket only in one train No. 09155, journey could have been possible as other trains had no stoppage at Palej railway station. The train No. 09155 departed from Palej at 07:49 p.m. and reached Vadodara at 09:21 p.m. and body was recovered almost 12 hrs. after arrival of said possible train and during these 12 hrs. approximately 70 trains passed through the place of incident and nobody came to know about the dead body lying near the track which is unbelievable. As per Statement of Loco-pilot and Guard of the claimed train, no incident occurred with their train. As per Post-Mortem Report the body was found in a decomposed position and Rigor Mortis was already passed away which generally remains in the body around 24 to 48 hrs. Depending upon facts and circumstances the deceased had not travelled in any train as per DRM Report. The ticket produced dated 01.05.2022 is a doubtful and is placed on record just to get compensation. The facts and circumstances indicate that alleged incident had not happened in railway premises and body of the deceased was brought at the place of incident. So as to misguide the railway authorities, as body was found in a decomposed position as per Post-Mortem Report. In a view of above aforesaid claim

application deserves to be dismissed with exemplary cost. We have heard both the sides and with pragmatic approach have placed the documents on record.

13. Along within its DRM Report the Respondent has placed on record a copy of TSR. The copy of the said TSR has been supplied to the Applicants side also but the Applicants side failed to dispute correctness of said TSR. The TSR has been maintained by the railway authority to maintain record movement of trains on a particular station. The said document is admissible as evidence under Section 191 of Railways Act. Although, Railway has not produced any person to prove the document but certainly copy of the TSR can be looked in to for collateral purpose. Accordingly, the Respondent has also produced copy of the Station Diary which carries recital regarding one lady found in injured condition near track and also weather clear and visibility clear. The Station Diary cannot be taken into consideration as it is not corroborating other admitted facts, whereas, TSR can be looked into for collateral purpose. As per TSR approximately 70 trains had been passed through the place of incident.

14. It is the case of the Applicants that deceased boarded train at about 06:20 p.m. It is the case of the Applicants that Husband of the deceased went to railway station to see off the deceased. The Applicants have come with specific case that deceased boarded a specific train but railways has come plea that except one train no other train had any stoppage at Palej railway station and train was available at 07:49 p.m. So it creates doubts about boarding of train at 06:20 p.m. as allegedly claimed by the Applicants. Leaving aside this aspect let us look into the matter in the light of medical evidence available on record and to find out possibility of travel as claimed in the OA. We would like to reproduce the extract of Post-Mortem Report for fair adjudication of this case as under:-

“11. Rigor Mortis is passed away.

12. Body is in stage of decomposition, skin peeling over patchy area of lateral aspect of lower half of left forearm, patchy area of Antero-Lateral aspect of lower 1/3rd of right forearm, patchy area of midline of chest, patchy area of Antero-Medial aspect of upper 1/2 of right leg. Loosening of Nails and Scalp hair present. PM lividity can't be appreciated due to changes of decomposition.

13. Facial features natural both eyes closed, cornea hazy. Mouth close. No abnormal discharge oozing from both ears, nostrils and mouth.

17. External Injury: surface wound and injuries, their nature, position, dimensions (measured) and directions to be accurately stated, their probable age and causes to be noted. If contusions present, what the condition of

subcutaneous tissue – 1) 4 CM X 1 CM Reddish color abrasion horizontally present over right forehead. 2) 1.5 CM X 1 CM Reddish color abrasion present over dorsal aspect of upper 1/3rd of left forearm. 3) 1 CM X 0.2 CM Reddish color abrasion present over Ventero-Medial aspect of upper 1/3rd of left forearm. 4) 2.5 CM X 0.5 CM Reddish color abrasion present over Medial aspect of right Knee 5) 5 CM X 1.5 CM X Bone deep lacerated wound present over left side occipital region, 0.5 CM distal to midline and 2.5 CM below occipital protuberance, margin irregular. 6) 0.5 CM X 0.2 CM to 5 CM X 0.5 CM Reddish color multiple abrasion present over middle 1/3rd right side back.

18. Other injuries discovered by external examination or palpation, as fracture etc. 1) Closed, displaced fracture of upper 1/3rd of shaft of humerus bone on left side with surrounded tissue contused. 2) Dislocation of right shoulder bone present with surrounded tissue contused. 3) Closed, displaced fracture of middle 1/3rd of femur bone on left side with surrounding tissue contused. 4) Closed, displaced fracture of upper 1/3rd of tibia-fibula bone on right side with surrounding tissue contused. 5) Closed, displaced fracture of pelvic bone on both side, with surrounding tissue contused.

17. a) Subscalp contusion present left Fronto-Temporo-Parieto-Occipital region.

c) Meninges intact. **Whole brain matter intact, soft on gross and cut section.** Diffuse subdural heamorage present on left hemisphere and patchy subdural haemorrhage present on right hemisphere. Underlying patchy subarachnoid haemorrhage present all over the brain.

18. Thorax:-

a) walls, ribes, cartilages: **Intact**

b) Pleura: Intact, No free fluid present in both pleural cavity.

c) Larynx, trachea and branchi: **Intact, soft & decomposing.**

d) Right lung: Both Lungs are intact and **flabby.**

e) Left lung:

f) Pericardium: Pericardium intact. Heart weight-202 GM. Heart

g) **flabby, soft decomposed.** Coronaries shows

h) Major vessels: Mild to moderate calcified.”

15. As per Post-Mortem Report the body was in the stage of the decomposition, skin peeling present over patchy area of lateral aspect of upper part of Abdomen, heart flabby, soft decomposed, coronaries shows mild to moderate calcified loosening of nails and scalp. All other abdominal organs were soft and decomposed. As per Medical Jurisprudence and Toxicology by Modi, loosening of Nails and decomposition of internal organs takes place only after 48 to 72 hrs. from the death. A part of Medical Jurisprudence and Toxicology by Modi is reproduced as under:-

“(iii) Secondary Relaxation

With the disappearance of the rigor mortis, the muscle become soft and flaccid, but do not respond to a mechanical or electrical stimulus as in the first stage of relaxation. This depends on the development of putrefaction, for which temperature is an important factor.

15.2.2.2.1 External Phenomena

*It is said that putrefaction follows the disappearance of the rigor mortis, but this is not always the case; since, in northern India, especially during the hot months from April to October, it commences before rigor mortis has completely passed off from lower extremities. This fact was observed before by Modi in a large number of dead bodies in Agra and Lucknow. India being a vast country. The climate conditions vary so much in different parts that it is impossible to give the exact time when the putrefactive processes develop in a dead body. The blood acts as a good medium for their growth and spread. The two characteristic features of putrefaction are the colour changes and **the development of foul-smelling gases...***

From 48 to 72 hours, the rectum and uterus protrude. The gravid uterus may expel its contents and prolapsed. The hair becomes loose, and is easily pulled out. The nails are also loose, and are easily detached."

16. If we believe entire story as put up by the Applicants, the travel would have been started at 06:20 p.m. and she might have fallen at about 09:00 p.m. and body recovered from the track at 09:40 a.m. she was sent for Post-Mortem at 03:15 p.m. on 02.05.2022. So the Doctors conducted Post-Mortem at about 18 hrs. after the death. The decomposition of body, loosening of Nails, decomposition of internal organs, flabby, soft and decomposed heart and appreciable changes due to decomposition of dead body reveals that death would have occurred much prior to time of journey. The medical evidence negates the possibility of travel as claimed in the OA.

17. The Husband has not stepped into the witness box. It is case of the Applicants that Husband accompanied his Wife to railway station and his Wife i.e. deceased boarded the train in his presence. Whereas, railway has taken defence that after issuance of alleged ticket shown to be recovered from the body of the deceased, no train was available and first train was available on 07:49 p.m. Under given circumstances the evidence of Husband has become crucial, important and primary. The Husband of the deceased has not stepped into the witness box. Even in the Statement recorded during RPF inquiry, the Husband

has not shown any anxiety or concern to know whereabouts of his wife, when she did not reached her Sister's home in the night of 01.05.2022. The non appearance of Husband of the deceased into the witness box has become serious matter and it would tantamount that the Applicants have concealed best available evidence.

18. The Son of the deceased deposed that he came to know about his mother from his Aunt (Massi). How Aunt came to know about alleged accidental fall of her sister has not been disclosed in the OA or during evidence. Even the said Aunt has not stepped into the witness box. What steps she had taken when after scheduled arrival of the train her sister did not reach her home. The unexplained missing lines are creating doubts and questions about the genuineness of travel as claimed in OA.

19. Son of the deceased had stepped into the witness box and he deposed that when his Mother did not reached his Aunt's house, he called his Aunt at about 09:30 p.m. and after coming to know that his Mother had not reached there, he called 5 or 6 times to his Mother but there was no search or any reasonable steps or any complaint to the Police even the Sister of the deceased did not make any effort to search of the missing lady. The inaction, evasive and indifferent attitude of the family of the deceased also creates doubts about the genuineness and bonafideness of alleged story of travel as claimed in OA. Under normal circumstances and a prudent family, under given situation would certainly inform Police or at least make inquiry from Railway authorities about missing of a passenger of a specific train. The Railway should felt sorry for its careless and sloppy way of pursuing this case before this Tribunal. As we can gather from the records, although Railway has taken complete defence in its Written Statement but weakened its case at the time of cross-examination. There should have been more effective and detailed cross-examination of the witness but the railways failed to put effective and proper questions to the witness to extract the truth.

A single cause or single fact should not be the basis of Judgment but in this case there are series of facts which indicates doubt about genuineness of claim made in the OA. It is on record that about 70 trains passed through the place where dead body was found to the Key-man. Since 09:00 p.m. of 01.05.2022 to 09:40 a.m. of 02.05.2022. The Vadodara Yard is a busy segment of railways and it is quit unlikely that no-body could not spot the dead body lying just near the track near D Cabin. Although, railways have mentioned that there was no patrolling by the Engineering staff but certainly D Cabin is a place of

operational activities and it is quite unbelievable that nobody spotted the dead body lying near the track, which remained beside the track for more than 12 hours.

Further, at the time of arguments Ld. Counsel for the Applicants submitted that it was a rainy day, infect there is no pleading or document on record that there was rain on that day. After arguments from the Respondent side about decomposition of the body, the Counsel for the Applicants argued about rain. The clothes of deceased were not wet, the blood stains on the ground were dried and further as per Station Diary the weather and visibility was clear. It was May month. Had there been any rain, the blood stains from the ground from place of incident would have been washed off. So it appears that at the time of arguments, the element of rain had been introduced to counter defence of decomposed dead body. Further in Post-Mortem Report it is not mentioned that decomposition of dead body was due to some external factor. The Police/RPF Investigation had ignored the condition of the body and decomposition of the dead body at advanced stage. It is a case of culpable negligence of investigating officers but keeping the scope of this case, within its ambits, we would like to say that the travel as claimed in the OA could not be possible due to reasons recorded above.

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Further, in Joint Observation Report it was concluded that deceased might have been fallen down from some unknown running train. There was no eye witness and said averment in joint report was based on hypothetical assumptions and speculations. Need not to say that hypothetical assumption which is not in synchronization with the scientific evidence and material available on record should not be believed.

20. There is no eye witness, so circumstantial evidence and medical evidence available on record would play important role. A person may lie that ticket has been lost during incident and simultaneously a ticket can be planted on a dead body but certainly scientific and circumstantial evidence would not speak lie. The decomposed condition of dead body and loosening of Nails etc. signifies that the travel as claimed was not possible. At this stage we would like to refer the Judgment of Hon'ble Supreme Court of Rina Devi v/s Union of India.

“We thus hold that mere presence of a body on the Railway premises ill not be conclusion to hold the injured or deceased was bonafide 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 claimant which can be discharged by filing on 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.”

21. So recovery of dead body on the track in itself is not a conclusive proof that person had fallen down from a train and as such this issue decided against the Applicants and in favour of the Respondent and further in the light of above discussion we find no legal impediment to say that ticket shown recovered from the dead body of the deceased was a planted ticket and travel on said ticket was not technically possible under given facts and circumstances. Although, both the parties have failed to produce any expelling evidence but certainly the probability of travel and incident as claimed in the OA is suspicious and doubtful in the light of all the circumstantial evidence and the medical evidence available on record also indicates negative aspect qua the case setup by the Applicants.

22. This Tribunal is to decide before parting with this Judgment we must record that this Tribunal is to decide cases under Chapter – VIII of the Railways Act, which is piece of welfare legislation and compensation is to be granted from public exchequer “from the pocket of tax payers”. So it is the duty of this Tribunal to judiciously decide cases and money of tax payers cannot be squandered in a hasty manner. We would like to quote Judgment of Hon’ble Supreme Court in case of Chandi Prasad Uniyal and Ors. v. State of Uttarakhand & Ors., (2012) 8 SCC 417, as under:

"14. We are concerned with the excess payment of public money which is often described as "taxpayers' money" which belongs neither to the officers who have effected overpayment nor to the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in such situations. The question to be asked is whether excess money has been paid or not, may be due to a bona fide mistake. Possibly, effecting excess payment of public money by the government officers may be due to various reasons like negligence, carelessness, collusion, favouritism, etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault, then the mistake is mutual. Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. Any amount paid/received without the authority of law can always be recovered barring few exceptions of extreme hardships but not as

a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment.”

23. So despite sloppiness and casual approach of Railways in defending its case, still this Tribunal is well within its jurisdiction to appreciate material available on record to decide the metering issue in a judicious manner. In the light of above, the deceased cannot be treated as bonafide passenger and further the Applicants have failed to prove on record that deceased fallen down from the train allegedly claimed in the OA. So incident would not come in the ambit of untoward incident. Accordingly, issue in view of our findings on main issue No. 1 and 2, which has been decided against the Applicants.

Reasoning of Issue No. 3

24. The Applicants have proved on record, KYC documents from Exh.A/7 to Exh.A/10 and from Exh.A/12 to Exh.A/13, and Ration card as Exh.A/14, the Respondent has failed to dispute inter-se relations of Applicants and their relationship with deceased. So this issue is decided in favour of the Applicants.

Reasoning of Issue No. 4

25. In view of our findings on main issue no. 1 and 2, which has been decided against the Applicants, it is held that applicants are not entitled to any relief or compensation as prayed for, we pass the following order:

AHMEDABAD BENCH

ORDER

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

27. 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.

28. 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.

[R.K. Manocha]
Member (Technical)

[Vinay Goel]
Member (Judicial)

Judgment pronounced and signed in open court today i.e. on 25.04.2024.

Place: Ahmedabad

Date: 25.04.2024.

[R.K. Manocha]
Member (Technical)

[VinayGoel]
Member (Judicial)



सत्यमेव जयते

रेलवादाधिकरण

अहमदाबाद पीठ

RAILWAY CLAIMS TRIBUNAL

AHMEDABAD BENCH