

Before Railway Claims Tribunal Ahmedabad Bench

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

CASE No. OA(IIu)/ADI/2020/0008

Date of Institution: 04.11.2019

Date of Decision: 22.01.2024

1. Satyaprakash Chaudhari Yadav, Aged 46 yrs.
(Father of deceased)

2. Vidhyavaridevi Satyaprakash Yadav, Aged 43yrs.
(Mother of deceased)

Both Residents of-350, Navagam, Pipal Faliyu
Taluka Songdadh Dist.Tapi Gujarat-394670

.....APPLICANTS

VERSUS

UNION OF INDIA Through General Manager,
Western Railway, Churchgate, Mumbai

.....RESPONDENT

CLAIM FOR Rs. 8.00,000/-

Judgment

Mr. M.G. Nagarkar, Ld.Counsel for Applicants.

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

This OA has been filed by two Applicants i.e. father and mother 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. Satish s/o Satyaprakash Yadav, aged 23 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.

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

- a) **Date of accident:** 11.05.2019
- b) **Person Deceased:** Satish Satyaprakash Yadav Aged 23 years
- c) **Relationship of the Applicant Nos.1 to 2 with the deceased:** Father and Mother of the deceased respectively.
- d) **Train involved and transit details:** Travelling by Unknown train from Ahmedabad to Surat. Journey ticket not found. Previous old journey tickets were recovered.
- e) **Untoward incident narrated:** The deceased was travelling by an unknown train from Ahmedabad to Surat, the deceased accidentally fell down from the unknown

running train near Bajwa Railway Station at K.M. No.403/21-23 and succumbed to his injuries on the spot, dead body of the deceased was taken to SSG hospital Vadodara. The deceased was returning and travelling from Bhavnagar via Ahmedabad and Surat to Songadh in an unknown train. He proceeded to his home town Songadh from Bhavnagar after purchasing tickets for his ongoing journey in phase manner on 10.05.2019, via Ahmedabad for which he purchased tickets, one being X-04372624 Dt.10.05.2019, Bhavnagar to Ahmedabad which he kept in his baggage. That the current ticket for his journey from Ahmedabad to Surat was as usual kept in his money pocket which had been lost along with money purse in the incident.

- f) **Jurisdiction:** Place of incident was near Bajwa railway station at K.M. No.403/21-23, this Bench of the Tribunal has territorial jurisdiction.

2. Salient features of reply:

a) **Averments in reply:** The respondent denied the incident as "UNTOWARD INCIDENT". That as per DRM Report, on personal search the tickets recovered from Bhavnagar to Ahmedabad dated 10.05.2019 and Jamnagar to Ahmedabad dated 30.04.2019 and the date of incidence is 11.05.2019 and the place of incidence is Bajwa B cabin KM No.403/21-23 which is far away from the routes for which tickets were recovered from the deceased. No travelling authority was found from Ahmedabad to Vadodara/Surat. Therefore, the deceased cannot be said a bonafide passenger within the meaning of the provisions of the Railway Act. Hence the applicants are not entitled to alleged amount of compensation.

b) **Crux of DRM Report:** "उपलब्ध दस्तावेज़, बयान व आरपीएफ़ की जांच में मृतक व्यक्ति के पास भावनगर से अहमदाबाद तक का सामान्य दर्जे का उक्त रेल्वे टिकट घटना स्थल पर तलाशी के दौरान प्राप्त हुआ था मगर दिनांक 11.05.2019 को मृतक व्यक्ति बाजवा बी केबिन किमी संख्या 403/21-23 पर पाया गया था, और सवारी गाड़ी संख्या 12972 लोकोपायलोट व गार्ड के कथन दर्ज किए गये जिसमें उन्होंने बताया है की उनकी गाड़ी से कोई दुर्घटना अहमदाबाद से वडोदरा के मध्य घटित नहीं हुई थी। इस प्रकार मृतक व्यक्ति के पास से अहमदाबाद - वडोदरा के मध्य यात्रा करने संबंधी कोई अधिकार पत्र/टिकट प्राप्त नहीं हुआ है। रेल प्रशासन द्वारा प्राप्त दस्तावेज़ों को इस रिपोर्ट के साथ संलग्न कर अग्रिम कार्यवाही हेतु सादर प्रेषित है।"

3. From the pleadings, the following issues were framed on 29.10.2020

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 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 under Para-16 of the claim application?

4. Relief?

4. Applicants Evidence and Respondent Evidence: Applicant no.1 has filed his affidavit as AW/1 and was cross-examined on 05.04.2022.

5. Description of the documents filed by the Applicants certified copies are as under.

Memo – Exh.A/1, Vardhi – Exh.A/2, Inquest Panchnama – Exh.A/3, Panchnama of place of incident – Exh.A/4, P.M. Note Exh. A/5, Railway Ticket – Exh.A/6, Election card of the deceased Exh.A/7, Aadhar card of the deceased – Exh.A/8, Aadhar card and Election card of applicant No.1-Exh.A/9 & Exh.A/10, Aadhar card and Election card of applicant No.2 – Exh.A/11 & Exh.A/12, Ration Card – Exh.A/13, Bank pass book – Exh.A/14.

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

6. At the time of arguments Ld. counsel for the parties argued as under: Counsel for the Applicants submitted that deceased was unmarried son of Applicants and Applicants have filed this case for compensation for the death of deceased in untoward incident during fell down from the running train. He further submitted that on 11.05.2019, the body of the deceased was reported to be lying on the railway track by one loco pilot, whereas deceased started his journey from Bhavnagar to Ahmedabad, and from Ahmedabad he was to go to Songadh by a connecting train. Though the student bag of the deceased was recovered but the money purse was lost during incident along with the ticket. Deceased was a bonafide passenger, as such Applicants are entitled for compensation.

Whereas, Counsel for Respondent submitted that deceased was not a bonafide passenger as no ticket was recovered from the body of the deceased. She further submitted that, though some tickets from old journey were recovered but cannot be connected with the incident. She further submitted that if person would have gone from Bhavnagar to Surat directly and there was no need to first come Ahmedabad. She further submitted that, as per timings of the tickets produced there was one direct train was available from Bhavnagar to Surat, then why the deceased not traveled in that train, is not explained."

from Ahmedabad to Songadh but I don't know by which train he was travelling. I don't know at what time my son boarded the train from Ahmedabad railway station for going to Songadh. My son started his journey from Bhavnagar railway station on 10.05.2019 but I don't know the time. My son used to travel like this only. My son was unmarried. I have not seen the incident."

11. So during cross examination railway has failed extract anything in its favour. The previous journey ticket and earlier journey ticket would go in favour of applicants about the mode of travel adopted in previous times from Bhavnagar to Songadh adopted by the deceased but certainly there exists synchronization between pleadings, documents on record filed in evidence and case as set up by the applicant about travel and accidental fall.

12. As per inquest panchnama the Panches concluded that the deceased might have fallen down from some train even AW/1 was not aware of details of the train. There is nothing on record which may suggest something negative against the averments made in OA under given circumstances, we feel fair and judicious to say that the deceased accidentally fell down from some unknown train, suffered injuries and lost his life. The deceased can be considered as bonafide passenger & certainly the accidental fall would come within the ambit of Untoward Incident so issue no. 1&2 are accordingly are decided in favor of applicants and against respondent.

Regarding Issue No. 3 & 4 for the judgment:

13. The claim has been filed by the father and the mother of the deceased. In the support of dependency they filed documents at Exh.A/9-12. There is no dispute about the relationship of the Applicants with the deceased and Respondent side has failed to counter the documentary evidence produced by the Applicants. The Applicants are father and mother 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.

14. Thus, the Applicants in this case will be entitled to get Rs 8,00,000/- as compensation from the Respondent Railway Administration on account of death of Satish Satyaprakash Yadav as prescribed under part-I of the Schedule appended to Rule 3 (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 w.e.f. 01.01.2017.

Both these issues are decided accordingly.

15. On the facts and in the circumstances of this case, we find it just and proper to award compensation as mentioned below;

ORDER

16. The claim application is allowed. The Respondent shall pay to the Applicants in a sum of Rs.8,00,000/- (Rs. Eight Lakh only) as compensation as per apportionment given below within 30 days from the date of this order. The awarded sum will carry simple interest @ 9% per annum from the date of the incident i.e.11.05.2019 till the date of this order. If the Respondent Railway fails to pay the amount within above stipulated time (30days), the awarded sum will carry simple interest @ 9% per annum from date of incident till the date of realization.

17. The Respondent Railway Administration is directed to deposit the whole amount along with interest with the Registry of RCT/Ahmedabad within a period of 30 days from the date of this order. Further the Respondent is directed to place the proof of awarded amount on record with up-to date interest along with the calculation sheet.

18. The Registry is directed to disburse the compensation amount as per detailed apportion as given below:

Applicants' Name	Awarded Amount	Initial Amount to be given through ECS/ NEFT	Amount to be invested under Annuity Scheme/FD
Appli. No. 1 Satya Prakash Chaudhari Yadav	Rs. 4 Lakh + Accrued proportion- -ate interest.	Rs 40,000/- + Accrued Proportion- ate interest.	Balance amount of Rs. 3,60,000/- (Three Lakh Sixty thousand) only shall be split into 36 fixed deposits of Rs 10,000/- each and invested for a period of 01 to 36 months in the ascending order. The bank shall release the amount monthly with accumulated interest upon maturity of each of these deposits to credit of the respective Bank Account.
Appli. No. 2 Vidhyavari devi Satya prakash Yadav	Rs. 4 Lakh + Accrued proportion ate interest.	Rs 40,000/- + Accrued Proportion- ate interest.	Balance amount of Rs. 3,60,000/- (Three Lakh Sixty thousand) only shall be split into 36 fixed deposits of Rs 10,000/- each and invested for a period of 01 to 36 months in the ascending order. The bank shall release the amount monthly with accumulated interest upon maturity of each of these deposits to credit of the respective Bank Account.

19. The Applicant(s) is/are hereby directed to furnish the particulars of his/her/their savings bank account of a Nationalized bank *near to his/her/their permanent place of residence* along with a copy of Aadhar Card, Pan card, two photographs, specimen signature and pass book of the bank with necessary endorsement of the bank that no

debit card/Cheque book has been issued, with the Registry of this Bench. The Applicant(s) is/are directed to produce the copy of the order passed by the Tribunal before the concerned bank whereupon the bank is directed to make an endorsement on the passbook.

20. The claimants are further directed to submit Form 15G or Form 15H (for senior citizen) to the Presenting Officer of the Railway (as applicable under sub-section (7) of section 19 of the Railway Claims Tribunal Act, 1987) within the 30 days from this order otherwise the Railway Administration deduct the applicable TDS as per provisions of the income tax act.

21. The Registry is directed to defer the disbursement of award amount till the passbook of saving bank account of the claimant(s) in a bank near the place of his/her/their permanent residence is not produced along with necessary endorsement.

22. The Registry is further directed to ensure that the statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished by the Bank to the claimant(s).

23. Further we deem it proper to direct the concerned bank that:

(a) The Bank shall not permit any joint name to be added in the savings bank account or fixed deposit amount of the claimant(s) i.e. savings bank account of the claimant(s) shall be an individual bank account and not joint account.

(b) The bank shall not issue any Cheque book and debit card to the claimant(s). However, in case the debit card or Cheque has already been issued, bank shall cancel the same before the disbursement of the awarded amount.

(c) No loan, advance, withdrawal or premature discharge is allowed on fixed deposit without the permission of the court.

(d) The bank shall make an endorsement on the pass book of the claimant(s) to the effect that no Cheque book and/ or debit card have been issued.

(e) The statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished to the claimant(s).

(f) The Bank is directed not to permit any debit to Saving Bank of Applicant(s) from any electronic channel or e-payment platform and to permit the claimant(s) to withdraw money from his/her/their saving Bank Account by means of a withdrawal form only.

24. The Registry is directed to send a free certified copy 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 Railway Claims Tribunal (Procedure) Rules, 1989.

25. 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.

2024
[K.K. Manocha]

Member (Technical)

[Vinay Goel]

Member (Judicial)

Judgement pronounced and signed in open court i.e. on 22.01.2024.

Place: Ahmedabad

Date: 22.01.2024

[K.K. Manocha]

Member (Technical)

[Vinay Goel]

Member (Judicial)