

**Before Railway Claims Tribunal, Ahmedabad Bench.**

Coram: Shri. Vinay Goel, Member (Judicial)

**CASE No. OA(IIu)/ADI/2020/0084**

Date of Institution: 27.12.2019

Date of Decision: 01.10.2024

1. Bimlesh Sughar, (Wife of the deceased).  
(Deleted from record as died on 10.02.2020)
2. Ashish Sughar, Aged about 07 yrs.  
(Minor son of the deceased)
3. Bhura Sughar, Aged about 05 yrs.  
(Minor son of the deceased)
4. Kalli Ramadhar, Aged – not defined.  
(Mother of the deceased)

All residents of :- Opp. Vegetable Market, Village – Tanga Mau,  
P.O. – Pailani, Thana – Jaspura, Tehsil – Pailani,  
District – Banda, Pincode – 210126, U.P.

..... Applicants

VERSUS

Union of India Through General Manager,  
Western Railway, Churchgate, 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 claim application had been preferred before this Tribunal by the wife and two minor sons of the deceased being dependents under Section 16 of RCT Act, 1987 read with sec. 124-A, 125 and 123 (c)(2) of the Railways Act, 1989 seeking compensation of Rs. 8,00,000/- together with interest on account of death of Sughar Ramadhar Yadav, aged about 34 years (hereinafter referred to as ‘deceased’) in an alleged untoward incident during alleged train journey. Applicant no.1 died during

pendency of the OA and thereafter the mother of the deceased has been impleaded as Applicant no.4, now Applicant no.4 is representing minors.

2. It is the case of Applicants that, on 14.11.2018 the deceased wanted to come from Ahmedabad to his native place Banda, U.P. by travelling in a train (name and number of train and destination of alleged journey not disclosed in the OA), he had conveyed this fact to Applicant no.1 on telephone. The deceased reached at Ahmedabad Railway station and purchased a valid Railway ticket and due to a sudden jerk and jolt of the train as well as due to heavy rush and push of the passengers, the deceased lost his balance and accidentally fell down from the train at platform no.2 of Ahmedabad Railway station. Due to fall he was dragged with the train and sustained multiple grievous crushed injuries and he died on the spot. Thereafter at 18:50 hrs., the Station Manager-Ahmedabad issued a Memo and informed GRP/Ahmedabad. The ticket was lost along with other items. In these consequences, the Applicants being dependents are entitled to compensation.

3. The Respondent Railway has contested the claim of the Applicants by filing the written statement along with the DRM Report, it is contended; that no ticket was recovered from the deceased hence, the deceased was not bonafide passenger; that there is no eye witness to the incident that how the incident happened; that the incident might have happened due to negligence/self-infliction of the deceased and the same is covered under proviso (b), (c) to Sec. 124-A i.e. “*Self-inflicted injury*” & “*his own criminal act*” for which no compensation are payable to the Applicants. The Applicants, in OA, have failed to plead details of the train as well as there is no evidence of travel. Furthermore, the incident does not fall within the ambit of untoward incident and the claim merits dismissal.

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

### **ISSUES**

1. Whether the deceased was travelling on a valid Railway journey ticket and was a bonafide passenger of the train in question at relevant time?
2. Whether the deceased met with an untoward incident due to fall from the running 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 sole dependents of the deceased as mentioned herein and are entitled to compensation as claimed in the claim application?
4. Relief?

5. **Applicant's Evidence:** Applicant no. 4 has filed her own examination-in-chief on affidavit as AW/1, primarily on the lines of facts narrated in the OA and she had been cross examined as under:

“मेरा लड़का अहमदाबाद से गाँव तांगामऊ जा रहा था। मुझे ट्रेन का नाम नहीं पता है। मुझे इस दुर्घटना के बारे में पुलिस ने बताया था। मेरा लड़का जब कारखाने से निकला था तब उसने फोन किया था कि मैं गाँव आ रहा हूँ। उसने मुझे शाम के 6 बजे यह बात बताई थी। ..... उसने यह कहा कि मैं खाना खाकर ट्रेन में चढ़ रहा हूँ परंतु उसने मुझे ट्रेन का नाम व नंबर नहीं बताया। ..... पुलिस ने मुझे इस दुर्घटना के बाद इतना ही बताया था कि तुम्हारे लड़के की दुर्घटना में मृत्यु हो गयी है। यह कहना गलत है कि मेरा लड़का बिना टिकिट के यात्रा कर रहा था, वह तो हर वक्त टिकिट लेकर ही यात्रा करता था। यह कहना गलत है कि मेरे लड़के ने आत्महत्या किया हो, वास्तव में वह तो भीड़ के कारण गिर गया था। ..... मैंने इस घटना को घटित होते हुए अपनी आँखों से नहीं देखा मुझे तो पुलिस ने बताया था कि भीड़ होने के कारण मेरा लड़का ट्रेन से गिर गया। मेरे लड़के का कपड़ा और झोला सब टिकिट के साथ खो गया। यह कहना गलत है कि मैंने झूठा claim दायर किया हो और मैं झूठा बयान दे रही हूँ। ”

6. **Respondent's Evidence:** The Respondent Railway adduced evidence by way of an affidavit of Sh. Vipin Mehta S/o Vasantray, Retd. Station Supdt.-Ahmedabad, as RW/1. In the affidavit he stated: that on 14.11.2018 he was on duty as a Station Supdt. (Operating) at Ahmedabad Railway station between 14:00 to 22:00 hrs. shift; that during his duty, after departure of train no. 59049 from platform no.2, many people gathered there and someone informed that an unknown person lying on track of platform no.2; that he immediately rushed to the site and saw a body with head cut

off and lying inside the track whereas remaining body was outside the track; that he have memo to GRP staff to clear the track and to take further action; that as per Station Working Rule (for short 'SWR') of Ahmedabad station, it is not possible to run more than 18 coaches train in any direction (Up/Down) from platform no.2. He was cross-examined at length by Ld. counsel for the Applicants.

**7. Documents filed by the Parties:**

a. The Applicants filed following copy of:

| No. | Nature of Document                          | Status of document | Exhibit |
|-----|---------------------------------------------|--------------------|---------|
| 1   | Memo                                        | Self-certified     | A/1     |
| 2   | Occurrence Report                           | Self-certified     | A/2     |
| 3   | Request letter to prepare Inquest Panchnama | Self-certified     | A/3     |
| 4   | Inquest Panchnama                           | Self-certified     | A/4     |
| 5   | Panchnama of place of Incident              | Self-certified     | A/5     |
| 6   | Request letter to do Post Mortem Report     | Self-certified     | A/6     |
| 7   | Post Mortem Report                          | Self-certified     | A/7     |
| 8   | Certificate of cause of death               | Self-certified     | A/8     |
| 9   | SDM report                                  | Self-certified     | A/9     |
| 10  | Dead body handing over receipt              | Self-certified     | A/10    |
| 11  | Aadhar card of the deceased                 | Self-certified     | A/11    |
| 12  | Adhar Card of Applicant no.1 to 3           | Self-certified     | A/12-14 |
| 13  | Bank details of the Applicants              | Self-certified     | A/15    |
| 14  | Death certificate of Applicant no.1         | Original           | A/16    |
| 15  | Adhar Card and Pan Card of applicant No.4   | Self-certified     | A/17-18 |
| 16  | Death certificate of father of the deceased | Self-certified     | A/19    |

b. During cross-examination of RW/1, the Applicants proved documents i.e. Sub. Inspector and Investigation Officer, RPF/Ahmedabad's letter to Station Supdt.-Ahmedabad, W.R. dated 16.06.2020, 17.07.2020 and 30.07.2020 (regarding to supply copy of Charge-Book, Memo given to RPF/GRP, statement of Station Mater and Form-1) as Exh.A/20, A/21 and A/22 respectively.

c. The Respondent filed the Statutory DRM report with Investigation report and also filed Station Working Rules of Ahmedabad Railway station.

### **FINDINGS**

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

#### **Issue No. 1 & 2:**

9. These two issues have been taken up for consideration simultaneously for sake of convenience and as also these are interrelated.

10. At outset, this Tribunal would like to quote the judgment of Hon'ble Supreme Court in case of Union of India vs. Rina Devi, Civil Appeal No. 4945 of 2018, the Hon'ble Apex court has held at para 17.4

*“Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found.”*

Hence, the judgment of the Hon'ble Apex court leads to interpretation that each case has its own peculiar facts and circumstances and there cannot be any straight jacketed formula. A singular point (or few aspects individually) may favour a particular thing or happening but to arrive at a right conclusion cumulative and holistic effect of all the relevant facts and circumstances in a given case are to be seen for judicious adjudication. There should be synchronization between facts and circumstances of a given case of the Applicants to get positive findings.

11. Admittedly in this case no ticket was recovered from the body of the deceased and further there is no eye witness or direct evidence. So, this Tribunal is to bank upon circumstantial evidence. In OA the Applicants pleaded as under:

*“It is true that my deceased husband’s railway travelling ticket, a pocket comb, a handkerchief, a money purse, a cash of Rs.1500 to 1600/- and a bag containing clothes, tooth-brush, towel and etc. is lost.*

*It is true that my deceased husband was the main bread earner for me and for our children. It is true that we all the Applicants are the only dependants of the deceased passenger. Except us, there is no other dependant of the deceased passenger.”*

**12.** Initially OA was filed by three Applicants i.e. wife and 2 minor sons of the deceased, the wife had filed OA for herself and for her minor sons. Unfortunately, during pendency of OA Applicant no.1 i.e. the wife of the deceased had expired. Thereafter by way of amendment the mother of the deceased had been impleaded as Applicant no.4.

**13.** This Tribunal is conscious that this Tribunal is to adjudicate and this matter has been filed under Chapter XIII of the Railways Act, 1989 which is a piece of welfare legislation but casual manner adopted while drafting OA is a serious issue. The parties should disclose true and correct facts at first instance. The mother has been omitted to implead party in the OA. Further in Parivar Register four children of the deceased have been shown but of OA the Applicants have come with plea of only two children. Explanation has come to clear such discrepancy that the deceased was not biological father of other two children, but OA is silent on that aspect. Though under normal circumstantial and in an ordinary case strict view would have been taken but with observations made above these aspect are put to rest. Further it appears that in a casual manner loss of ticket and other items have been shown in a stereotype manner and it would be pertinent to record that such pleadings create suspicious. The observation made in this para 12 would not have any bearings on merits of this case.

**14.** The Applicants in their OA though mentioned name of originating station but name of destination station is absent from the pleadings. It is mentioned that the deceased was travelling from Ahmedabad to native village situated in Banda, U.P. and during course of enquiry one Sh. Sanjay S/o Harilal Yadav nephew of the

deceased, disclosed on 20.06.2020 that the deceased had plan to go to native place. He further disclosed that the deceased used to go to village three-four times in a year by Sabarmati Express or Jan Sadharan Express train. Admittedly incident was not happened with said trains. As per official records Exh.A/1 incident has been described as under:

*“Arrange to clear track of PF No.2 as one person runover & dead at ADI stn.”*

**15.** The body was found in two pieces on Railway track of platform no.2 of Ahmedabad Railway station. Body was recovered soon after the departure of train no. 59049 from platform no.2 at 18:43 hrs. and body was recovered at 18:50 hrs. so, probability of incident with any other train was not possible as in between there could not be any train. Train no. 59049 was going towards Viramgam from Ahmedabad and Viramgam is in opposite direction to U.P. No person would board train no. 59049 for going towards Banda particularly when said person was very much familiar with the trains etc.

The RW/1 has been cross-examined by the counsel for the Applicants and during cross-examination the Applicants have failed to extract something material in their favour. The date of incident, timings, place of incident and condition of dead body remained uncontroverted even after cross-examination. Stray answer given by RW/1 about which train passed before recovery of body on track, would not have any material impact on the merits of the case because it is on record that the dead body was recovered soon after passing of train no. 59049 from platform no.2.

**16.** There was no eye witness to the incident but in Inquest panchnama it is mentioned that person fell down from any train. How and under what circumstances Investigation Officer/GRP made recital in Inquest Panchnama about fell from any train creates suspicion, particularly when in Railway records there exists specific evidence that body was recovered soon after the departure of train no.59049. Under given circumstance, this aspect has become important for considered i.e. whether

recital made in Inquest panchnama without any cogent evidence or without conducting proper enquiry is bidding upon this Tribunal or not. Certainly, answer would be in negative.

**17.** There was no eye witness and IO has not made any efforts to inquire about the name of the train with which incident allegedly occurred. Further body was found on Railway track towards off-side, head between Railway track and rest of the body outside the track. Such type of decapitation could be possible at Railway station, but the question remains un-explained that why a person tried to catch train no. 59049 going towards Viramgam.

**18.** The off-side boarding can be excused but there should be explanation about the purpose of boarding in train no. 59049. There is no explanation even the Applicants have concealed the name of train. it is not the case of the Applicants that the deceased intended to travel in train no. 59049 or inadvertently boarded said train and fell down. The Applicants have failed to prove on record any travel, purchase of ticket and sole statement of AW/1, would not be sufficient to discharge initial burden in terms of judgment of Hon'ble Supreme Court in case of *Rina Devi*. Recovery or non-recovery of ticket would not be a condition precedent to claim bonafide passenger status or decline such status but the Applicants are to explain entire facts in totality.

**19.** The Applicants have failed to produce witness with whom the deceased talked about his alleged journey. Though mother of the deceased in her evidence submitted that she had telephonic conversation with the deceased but there is no reference of any telephonic conversation in the OA. Further AW/1 has been impleaded as Applicant subsequently. So, the pleading made otherwise are not in consonance with deposition made at the time of evidence. The word Applicant mentioned in the OA is with reference to Applicant no.1 not for Applicant no.4.

**20.** The inquest panchanma conducted by GRP is vauge in nature as it does not spell out whether the deceased was boarding or alighting from train.

21. It is argued on behalf of the Applicants that the ticket selling staff of Railway station has not been produced before this Tribunal. Such argument is without any foundation as the Applicants have failed to disclosed destination station so it would be impossible to produce or call any such records from Railway about sale of tickets. The argument that if the deceased was travelling without ticket, RPF would have taken action is without any basis, as it is the case of the Applicants that the deceased allegedly intended to travel from Ahmedabad and incident also happened at Ahmedabad station so practically there was no travel.

22. All the arguments made in written arguments about ticket are stereotype arguments and do not fit into the situation of present case where a dead body was found in two pieces on off-side of platform from where no train was scheduled for allegedly claimed journey and further the Applicants deliberately concealed name of the train from which incident had occurred.

23. As observed earlier about possibility of fall from train no.59049 was possible but is not the case of the Applicants that the deceased was going to Viramgam and the Applicants have failed to purchase ticket so, the deceased cannot be treated as a bonafide passenger.

24. In initial documents there is reference of run over, said documents have been prepared and issued during course of ordinary working of Railway whereas as per Inquest Panchnama there was accidental fall from unknown train. So, the initial document issued by the Railway, would prevail upon Inquest Panchnama. As Railway documents appears to be more near to real facts than the Inquest Panchnama. Further such documents are attested copies of Railway records issued. Prepared and maintained by the Railways during course of their official working, as such said records are admissible u/s 191 of the Railways Act, 1989.

25. As per Guard Rough Journal Book of train no. 59049 Valsad-Viramgam passenger, said train had departed from Ahmedabad at 18:43 hrs. As per statement of

Head Constable/RPF namely Sh. Revabhai (unique no. 0601031), he was present at platform no.2 to check seal of SLR (Seating cum Luggage Rake) of train no. 59049 from 18:15 to 18:45 hrs. Exh.A/1 has been prepared at 18:50 hrs., whereas as per Exh.A/4 & A/5, the incident has occurred at platform no.2 before 19:00 hrs. These all are corroborative evidence to reach at conclusion that the incident had occurred with train no. 59049 and the deceased might have met with incident with train no. 59049.

26. According to 174 Cr.P.C. documents, the deceased accidentally cut off due to fallen down from any train while **boarding or getting down from train**. During cross-examination, AW/1 stated that “मुझे तो पुलिस ने बताया था कि भीड़ होने के कारण मेरा लड़का ट्रेन से गिर गया।” How the incident has occurred while boarding or de-boarding, GRP did not disclose correct information about the incident hence, it can be said that the GRP prepared 174 Cr.P.C. documents on speculations.

27. No doubt Form-1 was not issued and DRM Enquiry was not completed within stipulated time but according to Guard Rough Journal Book of train no. 59049 the train had departed 18:43 hrs., place of incident at platform no.2, Memo was issued at 18:50 hrs. are circumstantial evidence and said documents cannot be ignored. The Applicants are required to prove their own case and cannot be allowed to take benefit of weakness of defence. So, delay in preparation of DRM Inquiry would not be helpful to the Applicants under peculiar facts of the case.

28. As well as, no other major injuries have been recorded in Post Mortem except decapitation of head, it also negates the theory of accidental fall. The injuries recorded in Post Mortem report, are as under:

*Red Abrasion on Left outer forearm oblique o/c, Right medial of foot.  
Decapitation injury \*\*\* on neck at the level of floor of mouth to level of clavicle on both side which it separated the body in two part \*\*\*\*\*  
irregular. Contused lacerated underlying soft tissues muscles, veins and vessels are crushed.*

29. At this juncture it would be beneficial to reproduce judgment of *PUNJAB STATE CONSUMER DISPUTES REDRESSAL COMMISSION (Chandigarh)* in case of *Santosh Rani and Others vs National Insurance Company Ltd. and Another*, Original Complaint No. 24 of 1999. D/d. 20.9.2001, the relevant para is as under:

7. Insurance Company on the receipt of the claim information had also got the matter examined from Investigator Shri A.R. Kamal, Administrative Officer, Investigations, as well as through Shri Sarwan Singh, S.I. Police (Retd.), Investigator. Both the reports are annexed with the written statement. Gist of the final result of their investigation read as under:-

..... The head (neck) separated from the rest of the body was seen inside the railway track with face downwards. The rest of the body with both arms was outside the railway track (wrong side) in the same position. There was only one wound separating the neck ("head) from the rest of the body. No other injury existed on any other part, either of the head or the rest of the body, except a minor superficial abrasion. There were also no marks of tearing or cutting on the clothes worn by deceased Krishan Lal. ....

8. .... In the post mortem report or in inquest report the cause of death in fact was never gone into. The nature of injuries on the dead body and its lying down on the railway track in a particular position clearly indicates that it was a death by suicide and not by accident. There was no other mark of injury on any other part of the head or the rest of the body, except a minor superficial abrasion and there was no mark of tearing or cutting on the clothes worn by the deceased. It seems Railway Police prepared the inquest report in a routine manner and filed the case without determining as to whether the death was accidental or was due to suicide. The circumstances shown in the final result of the investigation by Shri A.R. Kamal, Administrative Officer, Investigations as well as Shri Surjit Singh, S.I. Police (Retd.), also go to show that Shri Krishan Lal deceased had left the home for a long journey on 9-5-1998 morning in the absence and without the knowledge of his wife Santosh Rani, who was away to Jalalabad. Even at the time of departure on 9-5-1998 Shri Krishan Lal deceased did not tell his son Arun and daughter Neeta Bala who were away from home to school of his intention of going for a long journey. From the overall circumstances taken from the record it seems that in fact Shri Krishan Lal deceased had committed suicide and it was not a case of railway accident.

30. Apparently, it is a case of a death on Railway track other than accidental fall, because of the reasons cited above. I am very much conscious that Chapter XIII of the Railways Act, 1989, is a piece of welfare legislation and liberal approach is

required to be adopted to uplift the objective of legislation. But simultaneously it is also true that despite liberal interpretation of statute, this Tribunal should not ignore facts of the individual case. A death which in fact is not due to accidental fall from a running train and in a case where a person had died while trespassing Railway track or himself invited injury with intention to commit suicide or due to other acts of criminal negligence and in such a case if victim or family succeed in getting compensation that would give wrong message to the society which may promote tendency to commit such acts particularly when no ticket had been recovered.

**31.** So, medical evidence is also in disagreement with the possibility of accidental fall. In view of findings about recovery of ticket, non-production of alleged ticket and to link the alleged ticket with any alleged journey the deceased cannot be treated as bonafide passenger. Further the incident would not come within the ambit of sec. 123 (c)(2) of the Railways Act, 1989.

**32.** Ld. counsel for the Applicant has quoted various following judgments where in Hon'ble Higher courts ruled that while boarding or de-boarding a train if a person fell down having valid ticket, such an incident would cover within the ambit of untoward incident, and about recovery of platform ticket and loss of travel authority.

|    |                         |                        |                                   |
|----|-------------------------|------------------------|-----------------------------------|
| 1  | 2018 ACJ 1441           | Supreme Court of India | UOI vs. Rinadevi                  |
| 2  | 2023 ACJ 2009           | Supreme Court of India | Sanyokta Devi vs. UOI             |
| 3  | 2023 ACJ 1659           | Supreme Court of India | Kamukayi 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  | 2019 ACJ 86             | Madras High Court      | M. Santha & ors. Vs. UOI          |
| 7  | 2016 (1) TAC 830 (Bom.) | Bombay High Court      | UOI vs. Nandabai & ors.           |
| 8  | 2013 ACJ 635            | Kerala High Court      | UOI vs. Parameshwaram pillai      |
| 9  | 2008 ACJ 822            | Raj. HC at Jaipur      | UOI vs. Hari Narayan Gupta        |
| 10 | 2016 (1) TAC 29 (Ori.)  | Orissa HC              | Sakhia Naik & ors. Vs. UOI        |
| 11 | 2010 ACJ 2777           | Culcutta HC            | Asharani Das vs. UOI              |
| 12 | 2010 ACJ 2453           | Supreme Court of India | Jameela & ors. Vs. UOI            |
| 13 | (2008) 9 527            | Supreme Court of India | UOI vs. Prabhakaran Vijaya kumar  |
| 14 | 2018 ACJ 1460           | Supreme Court of India | Kalindi Charan vs. S.E.C. Railway |

|    |               |                               |                             |
|----|---------------|-------------------------------|-----------------------------|
| 15 | 2014 ACJ 856  | Bombay HC at Nagpur Bench     | UOI vs. Anuradha & ors.     |
| 16 | 2012 ACJ 2507 | HC of Punjab & Haryana        | Mohanlal & ors. Vs. UOI     |
| 17 | 2008 ACJ 1921 | Kerala High Court             | Thomas vs. UOI              |
| 18 | 2012 ACJ 126  | Bombay HC at Aurangabad Bench | Pooja & ors. Vs UOI         |
| 19 | 2012 ACJ 1876 | Allahabad HC                  | UOI vs. Ram swaroop Sharma  |
| 20 | 2014 ACJ 115  | Kerala HC at Ernakulam        | Jayan & ors. Vs. UOI        |
| 21 | 2013 ACJ 1707 | Kerala High Court             | Jayalshmi & ors. Vs. UOI    |
| 22 | 2012 ACJ 2109 | High Court of Delhi           | Vidyawati Vs. UOI           |
| 23 | FAO 27/2022   | High Court of Delhi           | Smt. Bindadevi vs. UOI      |
| 24 | FA 69/2024    | Gujarat High Court            | UOI vs. Majidkhan B. Pathan |

**33.** All the above judgments would not be applicable to the facts and circumstances of the present case and are quite distinguishable from the present case, as the Applicants have failed to prove on record any purchase of ticket, accidental fall and medical expert opinion. The Ld. counsel for the Applicants without assessing applicability of case laws in a mechanical manner cited numerous judgments and I must record that such a practice cannot be appreciated by this Tribunal. The qualitative value of precedents as per facts of present case would be more helpful than the quantitative efforts made by Ld. counsel for the Applicants.

**34.** The single factor alone may favour or may be against a party but for having effective and proper relief there should be synchronization between all the facts, events and attending circumstances. It is quite difficult to arrive at right conclusion as in most of cases there would not be any eye witness. This Tribunal is to see the probabilities of accident, accidental fall and bonafide passenger status from the appreciation of documentary evidence and given circumstantial evidence. No doubt it was case of death and compassion and sympathy are in built traits of human nature but with due respect and with all humility, this Tribunal is a special court duly equipped with quasi-judicial function and is required to take pragmatic approach, but simultaneously it is the duty of this Tribunal to segregate all such cases where there is twisting of facts to take benefit of this piece of welfare legislation.

35. A party must come to a court with clean hands, it is the settled principle of law and if a person does not come to a court with clean hands, he/she would not be entitled to any relief. Certainly, under given circumstances the Applicants have failed to prove on record any alleged travel from Ahmedabad to his native place, and purchase of ticket. So, the deceased cannot be treated as a bonafide passenger. The incident would have been occurred due to some other reason than accidental fall from a train. Further the Applicants have failed to prove on record that the deceased accidentally fell down from running train and sustained injuries. So, this incident would not be covered under the ambit of untoward incident.

36. On the basis of facts spell out by the Ld. Counsels for the parties in the light of documents on record, I am of the view, that in the present case the victim himself was responsible for the incident and it was due to some reason other than accidental fall from running train and, therefore, this case is not covered by the definition of the untoward incident as defined u/s 123 (c)(2) of Railways Act, 1989. Accordingly, this Tribunal hold that issue no. 1 & 2 are decided in negative and against the Applicants.

**Issue No. 3:**

37. There is no dispute that Applicant no.1 was the wife of the deceased and she died during pendency of the case, Applicant no.2 & 3 are minor sons and Applicant no.4 is mother of the deceased and they all would come with the definition of the Dependents as per sec. 123 (b) of The Railways Act, 1989. The Respondent Railway has failed to address this aspect and even has not denied relationship of them with the deceased. Hence, the issue is answered accordingly in affirmative.

**Issue No. 4:**

38. In view of 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, the following order is passed:

**ORDER**

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

40. 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]**  
**Member (Judicial)**

Judgment pronounced and signed in open court today i.e. on 01.10.2024.

Place : Ahmedabad  
Date : 01.10.2024.

**[Vinay Goel]**  
**Member (Judicial)**

**AHMEDABAD BENCH**