



रेल दावा अधिकरण इलाहाबाद न्यायपीठ

RAILWAY CLAIMS TRIBUNAL, ALLAHABAD BENCH

Quorum:

SHRI MUKESH NIGAM, VICE CHAIRMAN (TECHNICAL)

Case No: OA/IIu/ALD/262/2020(OA/IIu/LKO/395/15)

Date of filing:07/04/2015

Date of order:03/10/2023

1. Smt. Malti Devi w/o Late Mukesh Kumar Singh
2. Pankaj Kumar s/o Late Mukesh Kumar Singh
3. Raj Kapoor s/o Late Mukesh Kumar Singh
4. Vikrant Kumar s/o Late Mukesh Kumar Singh

Residents of Village- Nasaratpur, Post- Lakshamanpur, Police Station-
Jandaha, District- Vaishali, Bihar

Applicants

Versus

Union of India represented through

General Manager, Northern Railway, Baroda House, New Delhi

Respondent

Application under Section 16 of Railway Claims Tribunal Act,1987 in respect
of claim for compensation for the death in an untoward incident

Value of claim: 8,00,000/- with interest

Present:

For the applicant: Mr. J.S.Pandey, Learned Counsel

For the respondent: Mr. H.N.Singh, Learned Counsel

J U D G E M E N T

By Shri Mukesh Nigam, Vice-Chairman (Technical)

1. The basic details relating to the accident as contained in the application are listed as under:

a.	Date of accident	13/09/2014
b	Person Died (hereinafter referred to as “deceased”)	Shri Mukesh Kumar Singh
c	Relationship of the claimant with the deceased	Wife and children
d	Train involved	Train number and name not mentioned
e	Place of occurrence of untoward incident	Near Phulpur Railway Station
f	Untoward incident narrated :(in verbatim): <i>Para 6 B “The person deceased accidentally fell down when he was traveling by any super fast train carrying passengers near Phoolpur station in district Allahabad on 13/09/2014”.</i> <i>Para 7 “Second class ticket no 94820651 from Anand Vihar to Patna was purchased and the same has been recovered from the deceased and the taken by the police.”</i>	

g	Written Statement and DRM's Report	Written Statement on 18/05/2015 and DRM Report on 07/05/2019.
h	Averments in reply in Written Statement (Para 3 and 18): (in verbatim) <i>Para 3: "That the content of para No. 6(B) of the Claim Application as alleged are not admitted. It is denied that the deceased was victim of the accidental fall from any train including the train in question. In the absence of the any precise cause for alleged accidental fall the allegations are false, fabricated, vague and concocted."</i> <i>Para 18: "That this present Claim Application is not maintainable and liable to be dismissed with cost against the Applicants and also in favour of the answering respondent, because their Claim Application is filed only in order to avail the benefits of Claim Amount by the Applicants. They have prepared the false, fabricated and concocted story of the death of the deceased in an accident by the alleged train."</i>	
i	Averments in reply in DRM's Report: (in verbatim) “रेलवे सुरक्षा दल प्रयाग की जाँच के दौरान प्राप्त दस्तावेजों से सिद्ध होता है कि मुकेश कुमार घायल अवस्था में फूलपुर के पास मिले थे जिनकी अस्पताल में मृत्यु हो गई थी दर्शाया गया टिकट आनन्द विहार से पटना का है जिसके रूट में फूलपुर नहीं पड़ता है अतः टिकट के आधार पर वैध यात्री प्रमाणित नहीं होता है कोई ट्रेन आनन्द विहार से पटना के लिये उक्त स्थान से नहीं गुजरती है। ट्रेन से यात्रा के दौरान गिरकर मृत्यु का कोई साक्ष्य नहीं है।”	

2. Upon pleadings of the parties, five issues were framed on 18/05/2015:-

- 1 Whether the Deceased was a bonafide passenger of the train in question?

- 2 Whether incident of death of the deceased falls under the ambit of :
untoward incident as defined U/S 123(c) (2) read with Section 124
of Rlys. Act, 1989?
 - 3 Whether the applicant is only dependant of the deceased?
 - 4 To what Relief?
3. The applicant, Smt. Malti Devi filed an affidavit on 03/02/2016 to present her case as AW/1 but as she was not an eye witness, the then Bench did not record her cross examination as a witness. An affidavit of Shri Pankaj Kumar as AW/2 was filed on the same day on 03/02/2016, and he appeared before the Bench and was cross examined on 03/02/2016.
4. The respondent had not adduced any oral evidence and had filed its certified DRM report Exh. R/01 along with Annexure on 07/05/2019 which is placed on record. The Respondent Railway had filed along with its DRM's Report, the Investigation Report of Inquiry Officer, Sub Inspector Shri Suresh Tiwari, RPF Northern Railway along with Annexures. On 02/07/2019, the Respondent filed supplementary respondent evidence containing time table reports along with certain Annexures which are placed at Exh R/02. The Respondent filed additional respondent evidence on 29/08/2023 containing the relevant TSR details which are placed at Exh R/03.

5. Considered the pleadings of both sides, perused all the documents and evidence available on record and heard the submissions made by Ld. Counsels on both sides. The decisions on the issues are as under: -

Decisions with Reasons

Issues No 1&2

6. Issues no 1&2 are being taken up together as they are interconnected. As per Police Form No 211 Panchnama, the information of death of the deceased was received at 1010 hrs of 14/09/2014 and the Panchnama proceedings were started at 1350 hrs on 14/09/2014 and concluded at 1430 hrs in the Mortuary House of SRN hospital at Allahabad. The Panchnama mentioned that the death of the deceased was on account of injuries arising from a train accident and that from the pocket of the deceased one ticket with number 94820651 from Anand Vihar to Patna, soaked in blood, was attached with the Panchnama.
7. The Panchnama made a mention of Memo No 9199 dated 13/09/2014 issued by SRN Hospital, Allahabad which informed that the patient expired on 13/09/2014 at 2230 hrs and the body of the deceased was sent to the mortuary under advice to the Police. It was mentioned in the Memo that although the name of the deceased was known, his address and other details were not known. It was mentioned that the deceased was brought to the

SRN Hospital by Chaudhari Lal of PS Phulpur at 2000 hrs on the same day. The Panchnama noted that the family members and relatives of the deceased were present outside the mortuary. The son of the deceased Shri Pankaj Kumar identified his father and informed that his father was travelling by train from Anand Vihar to Patna and fell from the train near Phulpur. He was admitted for treatment but he expired. In the opinion of the Panchas the cause of death of the deceased was due to injuries after falling from a train.

8. The Post Mortem of the body of the deceased was done between 1630 hrs to 1655 hrs on 14/09/2014. As per Post Mortem report, the cause of death was due to shock and hemorrhage as a result of injury to lungs.
9. The applicant filed an affidavit on 03/02/2016 to present her case in which she has stated that the deceased was working privately in Delhi and was returning home from Anand Vihar to Patna by some Superfast Express train. No train number or name of the Superfast Express was mentioned by the applicant. She had stated that she was informed by the Police on phone that the deceased fell from some train near Phulpur station and was admitted first in a railway hospital, Allahabad and, thereafter, in a Government hospital, Allahabad where he passed away. However, there was no evidence submitted by the Applicant of the deceased being treated in a railway hospital at Allahabad.

10. Shri Pankaj Kumar was presented as AW/2 and during the cross-examination, he stated his father, the deceased, was returning from Delhi on 13/09/2014 and they received the information of his death at 2300 hrs on 13/09/2014 from the Police. He also stated that he was a signatory of the Panchnama and the other Panchas in the Panchnama consisted of his family members, Harendra Pratap Singh, Surendra Pratap Singh, Parasnath Singh and their driver whose name he did not remember. During the cross-examination, he also first stated that he did not receive any item of the deceased from the Police and then himself stated that the Police had kept the ticket with them. He also stated that he did not know the items that the deceased was carrying.
11. In the DRM's Report, the Respondent had submitted that as per records maintained by Station Master at Phulpur station and the statement given by him to RPF enquiry, there was no untoward incident noted at the station.
12. As per entry number 15 of Rojnamcha maintained at RPF post at Phulpur on 13/09/2014, it was mentioned that at 1745 hrs the village head of Saraiya informed that one person near railway line was injured and on receipt of the information they went to the site. Further, it was mentioned as per entry number 16 at 1930 hrs on 13/09/2014 of Rojnamcha when they reached the railway line next to village Saraiya they did not find anyone. On enquiring from the villagers, it is noted in the Rojnamcha that the

injured person had injuries on his head and was talking on his mobile and that the villagers informed that the Police from Phulpur Thana took the injured with them.

13. In the DRM's Report, a statement from Shrimati Manju Devi, village head of Saraiya had been submitted in which she had stated that post noon near a culvert at km 26, she saw a person injured with wounds on his head and talking on his mobile. On seeing the injured person, Smt Manju Devi called the ambulance at number 108 on her mobile and a little later, the ambulance along with one home guard from Phulpur Thana came over and took the injured person to Allahabad for his treatment in a hospital. She had also stated that she had no knowledge of how the deceased was injured or whether he fell from any train. She had stated that she had also asked other villagers but none knew how the deceased was injured.

14. In the DRM's Report, it is mentioned that the ticket number 94820651 dated 12/09/2014 from Anand Vihar to Patna mentioned in the Panchnama was verified by Railway Administration and found to be genuine.

15. In her statement to RPF enquiry, the applicant Smt Malti Devi had stated that around 1500 hrs on 13/09/2014 when she received a phone call from the mobile number of her husband in which Police department informed her that the owner of the mobile number is injured.

16.The Respondent had stated that the applicants had mentioned in their Claim Application that the deceased was travelling from Anand Vihar to Patna railway stations by Super-Fast train carrying passengers and fell down near Phulpur railway station and that the Applicants had filed a rail journey ticket from Anand Vihar to Patna of 12/09/2014 to prove his bonafide. But, as argued by the Respondent, Phulpur station does not come in the route of trains from Anand Vihar to Patna railway stations. The Respondent filed the details from the public time table giving route of trains from Anand Vihar to Patna to prove their point.

17.Phulpur station falls under single line section of Phaphamau- Janghai section of Lucknow Division on Northern Railway. The direction of trains from Phaphamau side and going to Janghai side is called Down direction and of the trains from Janghai side to Phaphamau side is called Up direction. For the alleged journey of the deceased from Anand Vihar to Patna, the train is required to go in Down Direction. The station adjacent to Phulpur are Sarai Chandi on Phaphamau end and Ugrasenpur on Janghai end. and the order in which the stations come in the Down direction are – Sarai Chandi- Phulpur- Ugrasenpur. In order to establish their case,the Respondent had provided the actual running of train available in the TSR of Phulpur station which had details of Down passenger carrying trains

which passed Phulpur station between 12/09/2014 to 13/09/2014 which were as under:

Train Arrival & Departure Time of Down passenger carrying trains at Phulpur railway station					
Train No	Train Name	Originating Station	Terminating Station	Arrival Time	Departure Time
Dated 12.09.2014					
12165	GKP SF Exp	LTT	Gorakhpur	05:00	05:01
54375	Prayag Ghat Jaunpur Pass	PYG	Jaunpur	07:37	07:38
11107	Bundelkhand Exp	GWL	Varanasi	08:09	08:10
15017	Kashi Exp	LTT	Gorakhpur	09:50	09:51
11059	Chappra Exp	LTT	Chappra	10:07	10:08
15160	Durg Exp	DURG	Chappra	13:42	13:43
11071	Kamayani Exp	LTT	Varanasi	17:46	17:47
54107	ALD-Jaunpur Pass	PYGS	Jaunpur	18:19	18:20
Dated 13.09.2014					
19569	Okha-Varanasi Expr	Okha	Varanasi	03:01	03:02
12165	GKP SF Exp	LTT	Gorakhpur	05:08	05:09
12382	Poorva Exp	NDLS	Howrah	05:33	05:34
54375	Prayag Ghat-Jaunpur passenger			07:41	07:42
11107	Bundelkhand Exp	GWL	Varanasi	08:48	08:49
15017	Kashi Exp	LTT	Gorakhpur	09:43	09:44
11055	Godan Exp	LTT	Gorakhpur	10:59	11:00
15160	Durg Exp	DURG	Chappra	15:08	15:09
11071	Kamayani Exp	LTT	BSBS	17:18	17:19
54107	ALD-Jaunpur Pass	PYGS	JNU	18:59	19:00

18.It was noted that there was no arrival/departure or passing of any train from Anand Vihar to Patna at Phulpur railway station between the dates

12/09/2014 to 13/09/2014, while in the original application as well as in the railway journey ticket presented in the application the originating station of the applicant is stated to be Anand Vihar and termination station is mentioned as Patna.

19. The first report about the timing of the incident mentioned in DRM's Report is post noon when Shrimati Manju Devi, village head of Saraiya saw a person injured with wounds on his head and talking on his mobile. Further, in her statement to RPF enquiry, the applicant Smt Malti Devi had stated that around 1500 hrs on 13/09/2014 when she received a phone call from the mobile number of her husband in which Police department informed her that the owner of the mobile number is injured.
20. In the official records, as per entry number 15 of Rojnamcha maintained at RPF post at Phulpur on 13/09/2014, it is mentioned that at 1745 hrs the village head of Saraiya informed that one person near railway line is injured and on receipt of the information they went to the site. It is, therefore, apparent that that the deceased was found near Phulpur railway station between post noon to 1745 hrs.
21. The applicants had provided the rail journey ticket to prove the credentials of the deceased as a bonafide rail passenger. But, Phulpur station does not fall in the route of any train from Anand Vihar to Phulpur either as per the public time table or as per the actual running of trains on the dates under

consideration. The applicants had not mentioned any details if the deceased changed his plans of travel which took him on the route to Phulpur. The location of Phulpur where the deceased was picked up by the Police does not bear any relation to the credentials submitted by the applicant to prove the bonafide of the deceased as a passenger travelling from Anand Vihar to Patna. Mere recovery of a railway ticket from the body of the deceased in the Panchnama does not automatically lead to the deceased being a bonafide passenger unless it is co-related with the attending circumstances which led to his death. The attending circumstances in the case do not support the claim made by the Applicant that the death of the deceased was caused by falling from a train in which he was travelling as a bonafide passenger.

22.As is known, any death could possibly be on account of several reasons.

The Applicants had not been able to present a plausible case of deceased being a bonafide passenger and falling from a running train during his rail journey at Phulpur. The applicant had not mentioned the train number or name of the train which the deceased boarded for the journey from Anand Vihar to Patna in the original application. The details available indicate that the deceased was alive and was able to talk with his family members but the reasons for his reaching Phulpur railway station with the railway ticket found in the Panchnama have not been brought out by the applicants. AW/1

and AW/2 presented before the Bench were no eye-witnesses of the deceased boarding the train from Anand Vihar to Patna and have failed to elaborate on the deceased having been found in Phulpur which was not in the route of any train from Anand Vihar to Patna. There are no records available at Phulpur railway station about the incident.

23. The Panchnama of the body of the deceased was conducted at the mortuary of SRN Hospital, Allahabad and had not given any reasons how the death of the deceased was related to his train journey except for finding a railway ticket from the body of the deceased. There was no investigation done in the Panchnama on whether the deceased changed the route of his travel or of the circumstances of his death. The Panchas were the relatives of the deceased who have not come out with the reasons for finding the deceased at Phulpur which was not on the route of the trains from Anand Vihar to Patna.

24. In view of the facts and attending circumstances of the present case, it is proved on record that at the time of the accident, the deceased was neither a bonafide passenger nor had died in the incident by falling from a passenger carrying train which is an untoward incident as defined in Section 123(C)(2) read with Section 124-A of the Railway Act 1989. Hence, the issues no. (1) and (2) are decided in favor of the respondent and against the applicant.

Issues No 3 & 4

25. Having decided the issue of bonafide and untoward incident against the applicants they are not eligible to receive any compensation. Secondly, the issue of dependency loses its relevance and is not adjudicated.

O R D E R

26. The present claim application being devoid of merits is dismissed with no order as to cost.

27. The Registry is directed to send a free certified copy of this judgment directly to the applicants at their address mentioned in the claim application by Speed Post in compliance of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

Date: 03/10/2023

(Mukesh Nigam)
Vice-Chairman(Tech)

