



रेल दावा अधिकरण, इलाहाबाद न्यायपीठ
RAILWAY CLAIMS TRIBUNAL, ALLAHABAD BENCH

Coram:

SHRI SANJEEV AGGARWAL, HON'BLE MEMBER (JUDICIAL)

Case No:OA(IIu)/ALD/71/2024

Date of filing: 14.05.2024

Date of order: 14.11.2025

Kamal Kumar @ Kamal Kushwaha aged about 26 year son of Sri Sitaram
Resident of Village Santar, PS Baberu and District Banda.

--Applicant

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 injury in an untoward incident.

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

Present:

For the applicant: Shri C.P. Singh, Learned Counsel through hybrid mode

For the respondent: Shri Manish Pandey, Learned Counsel

J U D G E M E N T

By Shri Sanjeev Aggarwal, Member (Judicial)

1. This is an application filed by the applicant Kamal Kumar @ Kamal Kushwaha son of Sri Sitaram under section 16 of the Railway Claims Tribunal Act, against the respondent railway administration for payment of compensation for the injuries sustained by him allegedly in an untoward incident.

2. According to claim application the applicant Kamal Kumar @ Kamal Kushwaha (injured), on 27.09.2023 with a second-class journey ticket no. UCE39722008, was travelling from Atarra to Hazrat Nizamuddin Railway Station, by Sampark Kranti Express Train. The applicant fell from train near Atarra Railway Station and thereafter he was hospitalized by RPF. During treatment about four lac rupees was spent by the applicant. It was stated that the journey ticket was in custody of Police. Applicant submitted that he was a bona fide passenger and sustained injuries in an untoward incident, therefore, respondent railway is liable to pay compensation under the provision of the Act.
3. The Respondent Railway administration contested the claim of the applicants by filing the written statement, wherein apart from denying the allegations made in the claim application it was submitted that was trying to board running train and the incident happened due to his own negligence. The respondent also filed the Statutory Report of DRM and it is concluded in the report that, "... दौराने जांच संकलित किए गये साक्ष्यों स्पष्ट है कि कमल कुमार पुत्र सीताराम कुशवाहा निवासी ग्राम-सतार थाना बबेरू जिला - बाँदा उ.प्र. दिनांक 27.09.2023 को अतर्रा स्टेशन पर गाड़ी सं. 12447 यूपी संपर्क क्रांति में चलती ट्रेन में चढ़ने के प्रयास में फिसल कर प्लेटफार्म पर गिर जाने तथा ट्रेन की चपेट में आने पर घायल हो गया।" Hence it is clear that the injured had a negligence in the accident and thus the claim of the claimant is liable to be dismissed.

ISSUES

4. On the basis of the pleadings of the parties, the following issues were framed on 21.08.2024.
- 1) Whether the injured person was a bona-fide passenger of the train in question at the relevant time of the incident?

- 2) Whether the injuries sustained by the applicant are on account of an untoward incident as defined under Section 123 (c) read with Section 124 A of The Railways Act, 1989?
 - 3) What are the nature and extent of injuries sustained by the injured person?
 - 4) To what amount of compensation and relief, if any, is the applicant entitled?
5. During the course of enquiry/trial, the applicant Kamal Kumar @ Kamal Kushwaha filed his affidavit as AW-1 and was cross-examined by the Ld. Counsel for the respondent on 02.07.2025 and discharged.

The applicant has filed Aadhar Card (Exh.A/1), RTI Letter (Exh.A/2), Discharge Slip and Medical Report (Exh.A/3), and Unique Disability Certificate and other documents in evidence in support of the claim application.

6. The respondent railway administration has relied on the statutory investigation report of DRM Report containing several documents in evidence. However, no witness was produced by the respondent.
7. Heard the Counsels appearing on behalf of the parties and perused carefully the entire evidence on record. The decision on the issues is as under: -

FINDINGS

Issues No. 1 & 2:

8. These two issues are taken up for consideration simultaneously as they are inter-related. At the outset it is pertinent to mention here there is no serious challenge to the case of the applicant by the respondent railway.
9. As per case of applicant he, on 27.09.2023 with a second-class journey ticket no. UCE39722008, was travelling from Atarra to Hazrat Nizamuddin Railway Station,

by Sampark Kranti Express Train. The applicant fell from train near Atarra Railway Station and thereafter he was hospitalized by RPF.

10. In the present matter applicant Kamal Kumar @ Kamal Kushwaha appeared as AW/1 and filed his affidavit dated 02.07.2025, in support of his case. In his cross-examination he had stated that “मैं अतर्रा से दिल्ली जा रहा था। घटना की तिथि 27.09.2023 थी। मैं घर से लगभग 04 बजे सायं में अतर्रा स्टेशन के लिए निकला था। मेरे साथ एक बैग था। मैं स्टेशन लगभग 06-06.30 बजे पहुंच गया था। गाड़ी लगभग 07.30 बजे आई थी किस प्लेटफार्म पर आई थी मुझे याद नहीं है। ट्रेन का नाम संपर्कक्रांति था। ट्रेन लगभग 08 बजे रवाना हुई थी। मैं इंजन की तरफ वाले डिब्बे में बैठा था, यात्रा मैं जनरल डिब्बे में कर रहा था। घटना के समय मैं ट्रेन में चढ़ गया था और जब मैं अंदर घुस रहा था तो धक्कामुक्की के कारण ट्रेन - से गिर गया। ट्रेन चलने के 05-07 मिनट बाद मैं गिरा था। घटना के पश्चात मैं बेहोश हो गया था, जब होश आया तो पुलिस वाले मौजूद थे। अस्पताल मुझे मेरे परिवार वाले लेकर गए थे। घटना के पश्चात पुलिस वालों ने मुझे मेरा बैग दिया था और कोई कागज नहीं दिया था। साक्षी से यह पूछने पर कि पैरा 4 में लिखा गया है कि टिकट घटना के समय गुम हो गया था जबकि क्लेम अप्लीकेशन में यात्रा टिकट का नंबर तक बताया है तो साक्षी ने बताया कि टिकट मेरे बैग में था जो कि पुलिस ने मुझे दिया था। मैं लगभग 11-12 दिन बांदा के मेडिकल कालेज में एडमिट रहा था उसके पश्चात मैं इलाज के लिए दिल्ली चला गया था और वहां स्टीफन हास्पिटल में जो कि कश्मीरी गेट के पास स्थित है इलाज कराया था। सिर और हाथ में मुझे अंदरूनी चोटें आई थीं। टिकट मैंने लगभग 07 बजे खरीदा था जिसकी कीमत 210/- रूथी .।” During his cross-examination nothing has come out to disbelieve his testimony.

11. On the basis of inquiry conducted by Shri Raju Khan ASI/RPF/Banda respondent filed statutory investigation DRM report (Exh.R/1) with the conclusion:-“श्रीमान जी

दौराने जाँच संकलित किये गये साक्ष्यों से स्पष्ट है कमल कुमार पुत्र सीताराम कुशवाहा निवासी ग्राम प्र दिनांक.बाँदा उ -बबेरु जिला -सातर थाना-27.09.2023 को अतर्रा स्टेशन पर गाडी स0 12447 यूपी संपर्क क्रांति में चलती ट्रेन में चढ़ने के प्रयास में फिसल कर प्लेटफार्म पर गिर जाने तथा ट्रेन की चपेट में आने पर दाहिना हाथ कलाई के ऊपर से कट कर अलग हो गया।”

12. Ld. Counsel for respondent argued that the incident occurred due to own negligence of the applicant, therefore, respondent railway is not liable for any compensation. So far negligence of applicant is concerned it is well settled by Hon'ble Supreme Court In *Union of India v Rina Devi [2018 SCC Online SC 507]* that strict or no-fault liability on Railways enshrined under Section 124A of the Railways Act, 1989. Hence, it is held that the injured was a victim of an untoward incident of accidental falling from the said train.

13. With the DRM report at Page no.-6 verification report of ticket no. UCE 39722008 is available according to which this ticket was issued at Atarra Railway Station on 27.09.2023 for second class in superfast train and it was found genuine and valid ticket.

14. Therefore, in view of the facts and circumstances of the present case and law applicable thereon, it has been proved on record that the injured person was a bonafide passenger of the train in question and injured in the incident by falling from the running train which is untoward incident as defined in Section 123(C)(2) read with Section 124-A of the Railway Act 1989. Hence, the issue no. 1&2 are decided in favor of the applicant and against respondent railway.

Issues No 3&4

15. Now the question that arises for consideration what injuries have been sustained by him in an untoward incident and regarding compensation payable to the applicant

on account of those injuries. In order to prove the injury the applicant has relied on Discharge Slip and other documents of Govt. Medical College & Associated Hospitals, Banda (Exh.A/3) and Unique Disability ID issued from the Office of the Chief Medical Officer, Distt. Banda (Exh.A/4). During cross examination his injuries were measured and it was noted that “दाहिने हाथ में कोलीप्रैनोना के बाद कटा हुआ स्टेप है जिसकी लंबाई 11 सेमी या 4.33 इंच है” applicant had suffered injuries which falls under Part 3 of item no. 3 of the Schedule mentioned in Railway Accident and Untoward Incident Compensation Rule, 1990. Part 3 of item no. 3 of the Schedule reads as: “For amputation from 8” from the tip of acromion to less the 4-1/2” below the tip of olecranon” and prescribes the compensation amount is Rs. 5,60,000/-”. Therefore, the compensation of Rs. 5,60,000/- is awarded to the applicant. For the other injuries, pain and suffering compensation of Rs. 40,000/- is deemed just and proper. Thus a total sum Rs. 6,00,000/- (Rupees Six Lakh Only) is awarded to the applicant.

16. We may notice that in Geeta Devi Vs Union of India, Hon’ble High Court, Delhi has observed as under: -

“5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 5.1. Many of the claimants are drawn from rural areas with low levels of literacy and lower levels of making appropriate decision for the use of amounts guaranteed under the awards. There are several instances of their exploitation by middlemen and touts operating in the field. The scope for such exploitation is itself one of the incentives for fomenting bogus claims, fabricated documents and duplicate claims in different Benches of the Tribunal for the same cause of action. The availability of bulk funds in the name of an ill-informed claimant is also a cause for exploitation. A scheme for protection of the amount due to such a claimant is the need of the hour. Earlier, this Court has involved 21 Nationalized Banks in dialogue to evolve a scheme of

annuities for disbursement of claims. They have been ordered already to be implemented in this case, vide directions passed on 22nd February, 2019. This scheme as applied to motor accident claims has been approved by the Supreme Court in its order dated 05th March, 2019 in Krishnamurthi v New India Insurance Company, SLP (C) No.31521-31522 of 2017. A statutory rule backing will, therefore, best serve the interest of the litigant in the manner set out below:-

5.2. Insert following Rule 5 after Rule 4:-

Rule 5: Mode of payment--(1) The Tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode as shall sub-serve justice.

(2) If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance.

(3) Nothing in this Rule shall limit the power of the Tribunal to make modifications of the mode of disbursal for reasons to be stated in writing depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed deposit, for the benefit of the claimant.”

In pursuance of the orders passed by the Hon’ble High Court, Delhi, recently, Government of India has issued a Notification of 3rd June, 2020 amending Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, amending Rule 5 which reads as under: -

“5.Mode of payment—

5.1 The Tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode as shall subserve justice.

5.2 *If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance.*

5.3 *Nothing in this Rule shall limit the power of the Tribunal to make modifications of the mode of disbursal for reasons to be stated in writing depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed deposit, for the benefit of the claimant.*

5.4 *The orders dated 21st April, 2017, 24th May, 2019 and 6th November, 2019 of Hon'ble High Court of Delhi in FAO No. 22/2015 and CM Application No. 4501/2015 in Geeta Devi Vs Union of India, relating to disbursement of compensation shall be read as part of this Rule."*

This case pertains to untoward incident occurred before amendment of the Railway Accidents and Untoward Incidents (Compensation) Rules 1990 vide G.S.R No. 1165(E) dated 22.12.2016 which is applicable with effect from 01.01.2017 and hence the applicant is entitled for an amount of Rs. 6,00,000/- (Rupees Six Lakh Only) along with interest @ 9% from the date of incident i.e. 27.09.2023 with no order as to cost.

O R D E R

17. The applicant is entitled for an award of Rs. 6,00,000/- (Rupees Six Lakh Only) along with interest @ 9% from the date of incident i.e. 27.09.2023 with no order as to cost.

18. 10% of the compensation amount awarded to applicant i.e., 60,000/- (Rupees Sixty Thousand Only) along with proportionate interest will be paid to him immediately through ECS/NEFT into his bank account.

19. The remaining 90% of the compensation amount along with proportionate interest will be kept separately in FDRs in his name for a period of three years in a

nationalized bank and monthly interest will be paid to him. At the end of three years, the maturity amount and accrued interest will be paid into his bank account through ECS/NEFT.

20. The amount invested in FDR along with interest upon maturity of FDR should be credited in his saving account without recourse to this Tribunal. The monthly accruals of the fixed deposit should also be credited in his savings bank account.
21. The Respondent Railway Administration is hereby directed to deposit the awarded amount with the Additional Registrar of this Tribunal within a period of 60 days from the date of communication of the award failing which applicant shall be entitled to receive interest @ 9% per annum from the date of award till the actual date of depositing of the decretal amount with the Additional Registrar.
22. The applicant is hereby directed to submit the details of his Aadhar linked Bank account of a Nationalized Bank situated nearest to his place of residence to the Additional Registrar of this Tribunal. The Bank shall not permit any joint name(s) to be added in his saving bank account or fixed deposit account i.e. his Saving Bank Account shall be an individual Saving Bank Account and not a Joint Account.
23. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.
24. The concerned Bank shall not issue any cheque book and/or debit card to applicant. However, in case the debit card and/or cheque book have already been issued, Bank shall cancel the same before the disbursement of award amount.
25. The Bank shall make an endorsement on the passbook of the applicant to the effect that no cheque book and/or debit card have been issued or will be issued without the permission of the Tribunal and the applicant shall produce the passbook with the necessary endorsement duly signed and stamped by the Bank before the Additional

Registrar of this Tribunal. The Bank is further directed to permit the applicant to withdraw money from his Saving Bank Account by means of a withdrawal form only.

26. The application is allowed in the above terms. No order to costs.
27. The Respondent Railway Administration is further directed to place on record the proof of deposit of the award amount with up to date interest along with a calculation sheet and the same shall be filed with the Additional Registrar.
28. The Registry is directed to send a free certified copy of the Judgment directly to the applicant at the address mentioned in the claim application by Speed Post in compliance of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.
29. Fix on 30.01.2026 for hearing on compliance report and payment status from both the parties of the above order.
30. Date: 14/11/2025

(Sanjeev Aggarwal)
Member (Judicial)