



रेल दावा अधिकरण, इलाहाबाद न्यायपीठ

RAILWAY CLAIMS TRIBUNAL, ALLAHABAD BENCH

Corum:

SHRI MUKESH NIGAM, VICE CHAIRMAN (TECHNICAL)
SHRI AJAY KUMAR GARG, MEMBER (JUDICIAL)

Case No: OA/IIu/ALD/710/2020 (OA/IIu/GKP/69/2019)

Date of filing: 01/03/2019

Date of order: 14/03/2024

1. Smt. Husn Ara, aged about 65 years, W/o Late Ausaf Ahmad
2. Aqib Ahmad, aged about 31 years, S/o Late Ausaf Ahmad
3. Shafayeen Ahmad, aged about 30 years, D/o Late Ausaf Ahmad
4. Aalamin Ahmad, aged about 24 years, D/o Late Ausaf Ahmad

All residents of 77A/1B, Nayapura, Near Gaur Masjid, Kareli, GTB Nagar, Allahabad.

-Applicants

Versus

Union of India represented through
General Manager, North Central Railway, Allahabad

-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: Shri M. Chhaparia, Learned Counsel

For the respondent: Shri A. K. Pandey, Learned Counsel

JUDGEMENT

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	04/03/2018
b	Person Died (hereinafter referred to as “deceased”)	Late Ausaf Ahmad
c	Relationship of the claimant with the deceased	Wife, Son and Daughters
d	Train involved	Mentioned as first available train to Naini
e	Place of occurrence of untoward incident	At Allahabad railway station
f	Untoward incident narrated :(in verbatim): <i>Para 6: “Ausaf Ahmad, the deceased in untoward incident was Retired Assistant Engineer and for the purpose of going to Naini in connection with his pension, he came to Allahabad Jn. Station on 04.03.2018 where he purchased a second class train journey ticket for his destination Naini Jn. and came to Platform no. 10 for catching first Available train. On arrival and stoppage of the train at Platform no. 10 of Allahabad Jn., due to heavy rush of passengers in all general second class coaches, Ausaf Ahmad some how boarded in a coach but due to thrust and pressure of other passengers, Ausaf Ahmad accidentally fell down from the said train between the platform and railway line and on the</i>	

	same time, the said train started from the station platform and Ausaf Ahmad came into the contact of wheels of the train due to which he sustained grievous injuries and died at the spot. On information regarding the said incident, the Station Supdt. N.C. Railway, Allahabad sent a memo dt. 04.03.2018 to Dy.SS. (Commercial), RPF/GRP for necessary action. On receipt of said memo, a GD entry at serial no. 49 dt. 04.03.2018 in P.S. GRP, Allahabad was made and one Sub-Inspector alongwith two GRP Constable reached at the place of incident and tried to get the deceased identified but none could identify the deceased in the person present. In the mean-time one photocopy of Adhar Card was received to SI/GRP/Allahabad, through a passenger who found the same from the place of incident and on the basis of Mobile phone number written on photocopy of Adhar Card, the said Sub-Inspector conveyed message regarding the said incident to the family member. On information so received, Jafar Alam the brother-in-law of the deceased reached at the place of incident alongwith other parijan and identify the dead-body as of Ausaf Ahmad but due to night time and insufficient light the proceeding of Panchayatnama could not be completed. In the morning of 05.03.2018, the said Sub-Inspector completed the proceeding of Panchayatnama and dead body of Ausaf Ahmad was sent to Post-mortem house for its Post-mortem examination for ascertaining the real cause of death. The post-mortem examination of the dead body of Ausaf Ahmad was held by Medical Officer, earmarked for the purpose who prepared a Post-mortem Report No. 421/18, thereafter the dead body was handed over to the Parijan of the deceased for its last rites. ” Para 7: “Ausaf Ahmad, the deceased in untoward incident was a bonafide passenger holding a valid second class train journey ticket no. UCA 84206887 dated 04.03.2018 ex. Allahabad Jn. to Naini Jn. The said train journey ticket was recovered from the possession of the deceased by the Sub-Inspector P.S. GRP, Allahabad and made one of the enclosure to the Panchayatnama. The photocopy of said train journey ticket is filed as enclosure to the application.”	
g	Written Statement and DRM's Report	W.S. & DRM's Report filed on 05/01/2022

h	Averments in reply in Written Statement: (Para 6, 7, 17, 24&25 in verbatim) <i>Para 6: “That the Contents of Para no. 6 not admitted, hence denied. It is specifically stated here that the story raised by applicants are contrary to the facts and documents appended by them, it appears as concoctive, as per Applicants deceased was going to Naini for his work for payment of pension and purchased the ticket from Allahabad to Naini, ticket appended along with application was purchased at hour 14.49 on 04.03.2018 and information was received of run over at platform no. 09/10 by train no. 14511, which was running between Ex. Allahabad to Saharanpur, Naini Railway Station was not in the rout of train no. 14511, therefore it is incorrect to say that deceased has being boarded on 04.03.2018 in train for going Naini.”</i> <i>Para 7: “That the Contents of Para no. 7 not admitted as stated manner, hence vehemently denied.”</i> <i>Para 17: “That the ticket appended by applicants was purchased at 14.49 hour Ex. Allahabad to Naini on 04.03.2018, but a longer duration he was stayed at platform without any reason, therefore he was run over by train no. 14511 at 18.20 hour, place of destination was not coming in rout of Nauchandi Express, therefore it cannot say that he was boarding the train for going Naini.”</i> <i>Para 24: “That the deceased was neither a valid passenger of the train, nor he accidentally fell down from the train no. 14511 on 04.03.2018.”</i> <i>Para 25: “That if it is proved that the deceased was a bonafide passenger then the respondent is fully protected under exemption clause of section 124A of Railway Act 1989 and it is self inflicted attempt caused by his own criminal act, therefore the case of the applicant is not recovered in the definition of “Untoward Incident” as provided in law.”</i>
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i	Averments in reply in DRM's Report: (in verbatim) “श्रीमान जी उपरोक्त घटना की जाँच के दौरान उपरोक्त साक्ष्यों/कागजातों का संकलन किया गया है, जिसमें दि. 04-03-2018 को मृतक व्यक्ति औसाफ अहमद पुत्र स्व. विलायत हुसैन की मृत्यु गाड़ी सं. 14511 से रन ओवर होने के कारण हुई है। जिसकी सूचना सी.आई.टी. इला. द्वारा जी.आर.पी./रे.सु.ब./रेलवे डाक्टर प्रयागराज को दिया गया था तथा टी.टी.ई., जी.आर.पी., रे.सु.ब. व रेलवे डाक्टर द्वारा अटेण्ड किया गया था। रेलवे डाक्टर द्वारा चेक करने पर मृत घोषित किया गया। मृतक के पास से टिकट सं. यू.सी.ए.-84206887 इलाहाबाद से नैनी तक पाया गया था। जिसके सम्बन्ध में जिक्र सी.आई.टी. प्रयाग के द्वारा उपलब्ध करायी गयी डायरी में भी की गयी है। मृतक के पास से प्राप्त टिकट की जाँच मुख्य बुकिंग पर्यवेक्षक इला. के यहाँ से किया गया तो उनके द्वारा दि. 04-03-2018 को जारी किया जाना बताया गया था। परन्तु मृतक के पास से पायी गयी टिकट समय- 14:49 बजे लिया गया है, जबकि घटना समय- 18:20 बजे का है। नियमतः जनरल टिकट 03 घण्टे पूर्व से ही मान्य होता है। इसके अलावा मृतक जिस गाड़ी सं. 14511 से रन ओवर हुआ है वह गाड़ी नैनी स्टेशन नहीं जाती है।”
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2. Upon pleadings of the parties, four issues were framed on 20/07/2022: -

- 1) Whether the applicants are the sole dependant of the deceased and are covered by the definition of dependent under Section 123(b) of The Railways Act, 1989?
- 2) Whether the deceased was bona-fide passenger of the train in question at the relevant time of the incident?
- 3) Whether the death of the deceased was on account of an untoward incident as defined under Section 123(c) read with Section 124A of The Railways Act, 1989?
- 4) To what amount of compensation and relief, if any, is the applicants entitled?

3. The applicant Smt. Husn Ara tendered an affidavit as AW/1. She was cross examined and discharged. The Applicant had furnished certain documents which are marked Exhibits as under:

1	Copy of Aadhar Card of Husn Ara	Exhibit A/1
2	Copy of Nakal Rapat	Exhibit A/2
3	Copy of GRP Report	Exhibit A/3
4	Copy of Panchnama	Exhibit A/4
5	Copy of Aadhar Card	Exhibit A/5
6	Copy of Post-Mortem Report	Exhibit A/6
7	Copy of Thana Report	Exhibit A/7
8	Copy of Rail Journey Ticket	Exhibit A/8
9	Copy of Pariwar Register	Exhibit A/9
10	Copy of Aadhar Card	Exhibit A/10
11	Copy of Bank Passbook	Exhibit A/11

4. The Respondent had not adduced any oral evidence and had filed its certified DRM's Report Exh. R/01 along with annexure on 05/01/2022. The Respondent Railway had filed along with its DRM's Report, the

Investigation Report of Shri Satyas Kumar Yadav, SI/RPF/Post-Allahabad, North Central Railway along with Annexure. The Respondent Counsel had also placed on record the train schedule and station diagram which were taken on record.

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 decision on the issues are as under: -

Decision with Reasons

Issues No 2&3

6. Issue no 2&3 are being taken up together as they are interconnected. It is seen from the item number 42 of BIC (Batch Incharge) Diary of 04/03/2018 maintained at Allahabad railway station that Dy.S.S./Commercial/Allahabad had informed that there has been a case of run over by train no. 14511. It was mentioned in the Diary that Ticket Examiner Shri Prince Kumar gave a memo to GRP and RPF which was attached in the Station Diary. It was also mentioned that the Doctor was informed. It is further mentioned that Ticket Examiner Shri Ramesh Kumar Singh had informed that deceased had been identified and body of the deceased was attended by Shri Ram Awadesh Yadav of RPF, Shri Musafir Yadav of GRP and Dr. Parwej Ahmad, who had declared the

deceased dead. It is further mentioned that the deceased was taken to Swaroop Rani Hospital by the GRP and the deceased had a ticket from Allahabad to Naini bearing no. '84206887'.

7. It is further seen that a memo was sent by Chief Ticket Incharge/Allahabad Shri Shiv Shankar Kumar to RPF and GRP stating that Dy. S.S/Commercial/Allahabad informed that there had been a case of run-over in train no. 14511 and the doctor had been informed. The memo was sent on 04/03/2018 and received at 1825 hrs.
8. It is seen that the details mentioned in para 6 and 7 above were given to the Post Commander of RPF/Allahabad by Chief Ticket Inspector vide his letter "F-12/Misc/Admn/Ald/2019 dated 23/05/2019" in connection with enquiry on the incident. Chief Ticket Inspector was the custodian of the aforementioned documents which are, therefore, taken as evidence under section 191 of Railways Act.
9. The Panchnama proceedings of the deceased started at 1910hrs of 04/03/2018 and were completed at 0900 hrs on 05/03/2018. It was mentioned in the Panchnama that as per first information given about the form and cause of death of the deceased, Porter Shri Sageer Ahmad and Ticket Collector Shri Prince Kumar of Allahabad station had informed that the deceased died due to his body being cut by train at platform no. 10 at Allahabad. It was also mentioned in the Panchnama that as per

enquiry done by Head Constable Shri Amit Yadav and Constable Shri Vipin Rai, the cause of death of the deceased was the body of the deceased being cut by a train. It was mentioned in the Panchnama that body of the deceased was lying towards the Kanpur side of platform number 10 between pole no. 825/1050-B1 and 825/1050-B and between the tracks. It was mentioned that the face of the deceased was amputated from the body and the doctor had declared the deceased dead. It was mentioned that one person had found the Aadhar Card of the deceased which helped in identifying him. Upon contacting the relatives of the deceased, they had also reached the site of the incident at the time of Panchnama. In the Jamatalashi, it was mentioned that a rail journey ticket was found from the body of the deceased. It was also noted in the Panchnama that apart from the injury on the face and its amputation from the rest of the body, there were no other injuries on the body of the deceased. In the opinion of the Panchas, the cause of death of the deceased was on account of body of the deceased being cut by train and when his body was being cut, the face of the deceased was separated from the rest of the body.

10. The Post-Mortem of the body of the deceased was done from 1320 hrs to 1350 hrs of 05/03/2018. It was mentioned in the Post Mortem report that the deceased suffered crush injuries all over his face and head and the

entire skull bone was crushed and brain matter had come out. The immediate cause of death given in the Post-Mortem Report was due to hemorrhagic shock on account of ante mortem injuries.

11. In the Police Final Report sent by Shri Musafir Yadav of GRP/Allahabad on 03/04/2018 to S.P/Railways/Allahabad, it was mentioned that the cause of death of the deceased was due to trying to board a train on the western end on platform no. 10, when his body was cut by the train.

12. The applicant no. 1 had filed an affidavit in which she had stated that the deceased was a bonafide passenger holding a valid second-class rail journey ticket and he had reached platform no. 10 for catching first available train from the purpose going to the Naini in connection to his pension. She had stated in the affidavit that on arrival and stoppage of the train at platform no 10 of Allahabad Jn, due to heavy rush of passengers at platform no. 10, the deceased somehow boarded the coach, but due to thrust and pressure of passengers, the deceased fell down between the platform and rail line and got injuries which resulted in his death. During the cross examination, AW/1 stated that the deceased had left home at 1800 hrs for going to Naini and that she was not giving a false testimony.

13. The applicant had submitted a rail journey ticket bearing no. '84206887' from Allahabad to Naini Jn. which had been purchased on 04/03/2018 at 1449 hrs. The Respondent had got the veracity of ticket checked and had

found that the rail journey ticket was genuine. Yet, the respondent had not accepted the deceased to be a bonafide passenger or having fallen from the train going to Naini for the following reasons:

- i. The ticket appended by the applicant was purchased at 1449 hrs on 04/03/2018 from Allahabad Junction. The ticket which was appended by the applicant was valid for within three hours of purchase or departure of the first train. The validity of duration of three hours had expired at 1749 hrs. At the time of the incident around 1820 hrs, the deceased did not possess a valid ticket for rail travel. The deceased stayed at platform premises for duration longer than permitted and was run over by train 14511 Nauchandi Express.
- ii. The claimant did not mention in their claim application regarding any specific train number for travel to Naini from Allahabad station. In the rejoinder against the Written Statement of the Respondent, the applicant had stated that it had come to their knowledge that train number 53346 Allahabad Chopan passenger had departed from platform number 10 of Allahabad station at about 1500 hrs. The respondent had attached Load-Book of Allahabad station for 04/03/2018, which was certified by Station Superintendent /Allahabad station and which gave the details of all

terminating, stoppage and through trains at Allahabad railway station. After the issue of ticket at 1449 hrs for journey from Allahabad to Naini on 04/03/2018, the details of available trains along with the platforms they were as under:

- a. The details in the Load Book showed that 15159 Chhapra Durg- Sarnath Express which was going towards Naini with a stoppage at Naini had a scheduled arrival at 1515 hrs and scheduled departure at 1540 hrs on platform 9, but on the day of the incident it arrived at 1530 hrs and left at 1540 hrs from platform No 10.
- b. An originating train from Allahabad towards Naini with a scheduled stoppage at Naini was 53346 Allahabad-Chopan passenger which had a scheduled departure from platform number 2 at 1450 hrs but it departed at 1658 hrs from platform number 7.
- c. It is also seen that train no. 14511 had a scheduled departure at 1740 hrs from platform number 9 but had left on the day of the incident from platform no. 10 at 1745 hrs.
- d. The respondent had argued that trains, namely, 15159 Chhapra Durg- Sarnath Express ,53346 Allahabad-Chopan passenger were available for the deceased for the purpose of

travel towards Naini after the purchase of the ticket at 1449 hrs but for the reasons best known to him, he did not board them and instead moved around platform number 10 where 14511 was scheduled to depart at 1740 hrs. It was pointed out by the respondent that 14511 was not going towards Naini but was going in the opposite direction.

- iii. It was clearly mentioned in the memo sent by Chief Ticket Incharge/Allahabad Shri Shiv Shankar Kumar to RPF and GRP stating that Dy. S.S/Commercial/Allahabad informed that there had been a case of run-over in train no. 14511 and the doctor had been informed. The memo was sent on 04/03/2018 and received at 1825 hrs.
- iv. The information was received of run over at platform number 09/10 by train no. 14511 Nauchandi Express which was running from Allahabad to Saharanpur at 1820 hrs. The place of destination mentioned in the ticket, Naini, was not in the route of Nauchandi Express and, therefore, it cannot be stated that the deceased boarded a train going to Naini and died from falling from train when he was going to Naini.
- v. It was alleged by the applicant that the deceased had retired from the post of Asst Engineer was going to Naini for official work

regarding with his pension, whereas no offices are open after 1800 hrs for the pensioner. Further, the Respondent had stated that 04/03/2018 was a Sunday on which no offices are open and, therefore, the narrative put forward by the applicants is a concocted story.

- vi. During the cross-examination, the applicant had stated that the deceased had left home at 1800 hrs for his journey to Naini which demonstrated that the rail journey ticket between Allahabad to Naini of 1449 hrs found during the Panchnama had lost its relevance to prove the bonafide of the deceased as a rail passenger as the ticket purchased at 1449 hrs had lost its relevance on the departure of first train towards Naini. As noted above, 15159 Chhapra Durg- Sarnath Express departed Allahabad station at 1540 hrs towards Naini.
- vii. It was mentioned in the Panchnama that body of the deceased was lying towards the Kanpur side of platform number 10 between pole no. 825/1050-B1 and 825/1050-B and between the tracks. The body of the deceased was found on the west side on platform no. 10 which was in the direction for the journey towards Kanpur, whereas, the destination station deceased was allegedly travelling to Naini, was on the east side of the Allahabad station. The

claimant had not mentioned or pleaded that the deceased was boarding in wrong train.

viii. The deceased suffered injuries in the front side of mouth which was detached from the body as noted in the Panchnama and Post Mortem reports. In case the deceased had fallen from a running train, the other parts of the body would have also suffered injuries.

14. The reasons put forward above by the respondent to contest the narrative put forward by the applicant are logical and convincing. 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 applicants.

Issues No 1&4

15. Having decided the issues 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

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

17.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:14/03/2024

(Ajay Kumar Garg)
Member (Judicial)

(Mukesh Nigam)
Vice-Chairman (Technical)