



रेल दावा अधिकरण, इलाहाबाद न्यायपीठ

RAILWAY CLAIMS TRIBUNAL, ALLAHABADBENCH

Corum:

SHRI MUKESH NIGAM, VICE CHAIRMAN (TECHNICAL)

Case No: OA/IIu/ALD/73/2021 (OA/IIu/LKO/206/2019)

Date of filing: 04/04/2019

Date of order: 28/12/2023

1. Chhote Lal alias Chhote Singh aged about 63 years S/o Late Ram Asare
2. Semiya Devi aged about 54 years W/O Chhote Lal Alias Chhote Singh

Both resident of C/O Patel Utsav Bhawan Village- Kachhar Purwa Kol Gadahiya, Post- Semariya Charan Dasi, P.S.- Kotwali Karwi, Teh.-Karwi, District- Chitrakoot, U.P.-210205

-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 S. V. Tripathi, Learned Counsel

For the respondent: Shri H. S. Gautam, 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	27/06/2018
b	Person died (hereinafter referred to as “deceased”)	Late Shiv Shankar Singh
c	Relationship of the claimant with the deceased	Parents
d	Train involved	Express Train. No name or number mentioned
e	Place of occurrence of untoward incident	Between Khoh and Chitrakoot Dham Karwi at Km No. 1390
f	Untoward incident narrated :(in verbatim) <i>Para 6(b): “That Shiv Shankar Singh was travelling with second class Mail/Express railway journey ticket from Satna to Chitrakoot Dham Karwi railway station by An express train when train was running between Khoh and Chitrakoot Dham Karwi Railway Station Km. nu 1390, he accidentally fell down from the train due to pressure of the passengers of the train. As a result he sustained serious Injuries in his whole body and his right leg was amputated on thigh thereafter he was</i>	

	<i>admitted District Hospital Chitrakoot By the help of G.R.P. and R.P.F. Staff The Doctor was declared dead. Thereafter Police Formality done in District Hospital Chitrakoot U.P. on dated 27.06.2018.</i> <i>Para 7: "The second class Mail/Express railway journey ticket from Satna to Chitrakoot Dham Karwi Railway Station, same has been lost some where incident site with his other belongings."</i>	
g	Written Statement and DRM's Report	W.S. & DRM's Report filed on 11/12/2020
h	Averments in reply in Written Statement: (Para 3, 4, 15, 16, 19&20 in verbatim) <i>Para 3: "That the contents of Para 6 B of the claim application are strongly denied."</i> <i>Para 4: "That the contents of Para 7 of the claim application are denied as stated the deceased was not a passenger of the train in question on alleged date of alleged incident."</i> <i>Para 15: "That the deceased was neither a passenger of the train in question nor he had journey ticket from Satna to chitrakoot Dham karvi on alleged date of alleged incident."</i> <i>Para 16: "That it is not true the deceased was accidently fell down from the train in question on alleged date of alleged incident thus the case of the applicant is false and fabricated and the case is not covered in the definition of UNTOWARD INCIDENT."</i> <i>Para 19: "That the particulars furnished by the applicants in the para 6 and 6 B of the claim application are not sufficient to attract the ingredients of Sec. 123 C (2) of the Railway Act 1989."</i> <i>Para 20: "That without prejudice to above pleas it is submitted that the</i>	

	<i>respondent/Railway Administration is fully protected under the Exemption to Sec. 124 A of the railway Act 1989 as it is self Inflicted injury caused by his own criminal Act.”</i>
i	Averments in reply in DRM’s Report: (in verbatim) “धारा 124(ए) के अन्तर्गत प्रदत्त शक्तियों के तहत निरीक्षक रे.सु.ब. चित्रकूट कर्वी धाम के द्वारा जॉच की गई मामले में संलग्न पत्रावली एवं पुलिस रिकार्ड का अवलोकन करने से स्पष्ट होता है कि दावाकर्ता द्वारा मृतक की यात्रा के सम्बन्ध में स्पष्ट नहीं बताया गया है, एवं पुलिस तलाशी लेने पर मृतक के पास किसी प्रकार का कोई रेल यात्रा टिकट नहीं मिला, एवं मृतक के साथी विजय कुमार द्वारा मृतक को अपनी चार पहिया गाड़ी से सतना जाने एवं सतना से चित्रकूट का टिकट लेकर गाड़ी में बैठाने की बात अपने बयान में बताई है। किन्तु जॉचकर्ता के अनुसार जॉच में दावाकर्ता और मृतक के दोस्त के बयानों में भिन्नता पायी गई है। पुलिस पंचनामे में मृतक की मृत्यु ट्रेन से यात्रा के दौरान गिर कर कट जाने के कारण होना दर्शाया गया है।”

2. Upon pleadings of the parties, four issues were framed on 16/07/2021: -

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

3. The applicant tendered an affidavit as AW/1 on 12/05/2023 and presented Shri Akshay Singh as AW/2 on 28/08/2023. Both were cross-examined

and discharged. The applicant had furnished certain documents which are marked Exhibits as under:

1	Copy of Aadhar Card of Chhote Lal Urf Chhote Singh	Exhibit A/1
2	Copy of Station Master Memo	Exhibit A/2-3
3	Copy of Station Master Charge Diary	Exhibit A/4
4	Copy of Short Information of Incident	Exhibit A/5
5	Copy of G.D. Report	Exhibit A/6
6	Copy of Panchnama	Exhibit A/7
7	Copy of Post-Mortem Report	Exhibit A/8

4. The Respondent had not adduced any oral evidence and had filed its certified DRM's Report Exh. R/01 along with annexure. Respondent Railway had filed along with its DRM's Report, the Investigation Report of Shri Kailash Prasad Mishra, SI/RPF/Post- Chitrakoot Dham Karvi, North Central Railway along with Annexure.
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 1&2

6. Issue no 1&2 are being taken up together as they are interconnected. It is seen from the records that Deputy Station Master/Chitrakoot Dham sent a memo at 0310 hrs of 27/06/2018 to Incharge RPF/Chitrakoot Dham stating that at around 0307 hrs, Section Controller had informed on control telephone that around kilometer 1390, the feet of some unknown person had been cut but he was alive. It was further stated in the memo that the information about the incident was given by the Driver of 15205 Lucknow Jabalpur Express at Khoh station and it was requested that RPF should reach the site for taking necessary action.
7. It is also seen from the official records that at 0436 hrs of 27/06/2018, Deputy Station Master/Chitrakoot Dham sent a memo to Chief Medical Officer/District Hospital/Chitrakoot stating that an unknown person was lying injured near the railway tracks and for treatment he had been sent to the hospital in Ambulance 108 and arrangements may be made for treatment.
8. In the Station Diary of Chitrakoot station for the date 27/06/2015, there was a special mention of this incident. It was further mentioned that the staff of 51806 were given a memo from Khoh railway station directing them that they should stop at the site of the incident and bring the injured

to Chitrakoot railway station as 51806 was the first train after the incident. It was also mentioned that the Station Master/Chitrakoot sent Pointsman Shri Shahuddin to the site of the incident, inform 108 ambulance and as soon as the injured was brought by 51806, after first aid, he was immediately sent to 108 ambulance with RPF staff to the District Hospital/Chitrakoot for necessary treatment.

9. In the G.D. details maintained at Karvi Kotwali City Police Station of district Chitrakoot, it is mentioned in G.D. no.018 entered at 0830 hrs of 27/06/2018 that the ward boy Shri Moolchandra from District Hospital/Chitrakoot had given a memo no. 4618 informing that an unidentified dead person whose age was around 40 years, was cut by a train and had died.
10. The Panchnama proceedings of the deceased began at 0830 hrs of 27/06/2018. During the Panchnama proceedings, the body of the deceased was identified by Shri Chhote Lal Singh Patel who stated that the deceased was his son. The father of the deceased stated that the railway line is close to their village and he did not know how and when his son reached the railway line and how he got injured from a train, which resulted in his death. In the opinion of the Panchas which included the father of the deceased, the cause of death of the deceased was due to his body having come in grip of a train and on account of injuries as a

result of it. No rail journey ticket was found from the body of the deceased during the Panchnama.

11. The Post-Mortem of the body of the deceased was done from 1430 hrs to 1520 hrs of 27/06/2018. As per the Post-Mortem report, the death of the deceased was due to hemorrhagic shock due to ante mortem injuries.

12. We are drawn to the observations made by the Hon'ble Supreme Court in Union of India v/s Rina Devi (2018 ACJ 1441) wherein, it is held that if an affidavit is filed by the victim or the dependents of the victim, the same is sufficient to hold that the victim was a bonafide passenger. It would be apposite here to reproduce para 17.4 of the judgement of Rina Devi (supra) as under: -

“17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. 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. The legal position in this regard will stand explained accordingly.”

13.The applicant no.1 Shri Chhote Lal had filed an affidavit in which he reiterated the facts made in the original application. During the cross examination, he stated that the deceased has left the house for travelling from Satna to Chitrakoot Dham on 26/06/2018 and he received the information about the incident on 27/06/2018.The submissions made by the applicant number 1 before the Bench were in total contradiction with the statement given by him in the Panchnama where he had stated that the railway line is close to their village and he did not know how and when his son reached the railway line and how he got injured from a train, which resulted in his death.

14.The applicant had presented Shri Akshay Singh as AW/2, who had filed an affidavit stating that he had left the deceased at Satna railway station for his travel from Satna to Chitrakoot on second class ticket in Jabalpur-Lucknow-Chitrakoot Express Train no. 15206. During the cross examination, AW/2 stated that he had gone to his uncle's house in the month of June to Satna and then further stated that he along with his uncle(the deceased) had gone to Satna to get their four-wheel vehicle repaired. He stated that the deceased was driving the vehicle and he was accompanying him and then he met the deceased for the last time on the

ticket counter when he purchased the ticket and it was around 2200 hrs to 2300 hrs. He further stated that he got the information about the incident between 1000 hrs to 1100 hrs on the next day when he arrived at the village. He further stated that the place of incident was only 10 kilometers away from his village and that he had left his uncle outside the station. He further stated that the day he went from Chitrakoot to Satna, on the same day, he had made his uncle sit on a train to return from Satna to Chitrakoot. The proposition that the deceased had gone by a road vehicle to Satna with AW/2 and was returning by train was not known to AW/1 as was evident from the statement by AW/1 in the Panchnama and, therefore, appears doubtful and an afterthought.

15.The Respondent Railway had submitted that the deceased was neither a passenger of the train nor he had journey ticket from Satna to Chitrakoot on alleged day of the incident.

16.In the opinion of the Panchas which included the father of the deceased and AW/1, the cause of death of the deceased was due to his body having come in grip of a train and on account of injuries as a result of it. No rail journey ticket was found from the body of the deceased during the Panchnama or any details of train journey mentioned by the relatives of the deceased present during the Panchnama proceedings. AW/2 had stated that the place of incident was only 10 kilometers away from the

village of the deceased. During the Panchnama proceedings, the body of the deceased was identified by Shri Chhote Lal Singh Patel who stated that the railway line is close to their village and he did not know how and when his son reached the railway line and how he got injured from a train, which resulted in his death. The testimony of AW/1 before the Bench was, therefore, contrary to his statements during the Panchnama and appears to be an afterthought. Similarly, AW/2 was not mentioned in the original application and his testimony also appeared to be an afterthought.

17. It is apparent, therefore, that the present case is premised on incorrect presumptions and is seriously devoid of determining details. In view of the facts and 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 Nos. 3 & 4

18. 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 issue no. 3 loses its relevance and is not adjudicated.

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

20.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: 28 /12/2023

(MUKESH NIGAM)
VICE-CHAIRMAN(TECH)