



रेल दावा अधिकरण, इलाहाबाद न्यायपीठ

RAILWAY CLAIMS TRIBUNAL, ALLAHABAD BENCH

Corum:

SHRI MUKESH NIGAM, VICE CHAIRMAN (TECHNICAL)

Case No: OA/IIu/ALD/93/2020 (OA/IIu/LKO/804/2015)

Date of filing: 20/07/2015

Date of order: 30/04/2024

1. Suneeta Devi wife of Late Ranjeet Kumar Rai aged about 32 years
2. Amar Jit Kumar Ray son of Late Ranjeet Kumar Ray age about 12 years
3. Ajay Kumar Roy son of Late Ranjeet Kumar Ray age about 10 years
4. Bhola Prasad Ray son of Late Teji Lal Ray age about 60 years
5. Smt. Sukmari Devi wife of Bhola Prasad Rai age about 57 years

Applicant no. 2 and 3 are minor so represented through their mother and natural guardian Smt. Suneeta Devi wife of Late Ranjeet Kumar Rai
All resident of Village and Post- Bhaptiyahi, Police Station- Laukahi, District- Madhubani (Bihar).

-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 D. K. Tripathi, Learned Counsel

For the respondent: Shri A. K. Mishra, 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	20/04/2015
b	Person Died (hereinafter referred to as “deceased”)	Late Ranjeet Kumar Rai
c	Relationship of the claimant with the deceased	Wife, Sons and Parents
d	Train involved	19165 Sabarmati Express
e	Place of occurrence of untoward incident	At Ata Railway Station
f	Untoward incident narrated :(in verbatim): <i>Para 6 (B): “The person deceased was travelling from Ahmedabad to Darbhanga by Sabarmati express train no - 19165 he accidentally fell down at Ata Railway station district- jalaun on 20-04-2015.”</i> <i>Para 7: “Second class journey ticket no. D99198800 purchased from Ahmedabad to Darbhanga The ticket was recovered from the dead body of the deceased during panchnama by the police.”</i>	
g	Written Statement and DRM’s Report	W.S. & DRM’s Report filed on

	23/07/2015
h	Averments in reply in Written Statement: (Para 2, 3, 10 & 12 in verbatim) <i>Para 2: “That whereas Para 6(a) call for no reply, the contents of Para 6(b) are not admitted. It is denied that the deceased, claimed upon, was a victim of any ‘accidental’ fall from any Passenger carrying train, including the alleged train. In absence of precise reason for the alleged fall, the coach location of the train involved and time of occurrence, etc., the allegations are vague and concocted.”</i> <i>Para 3: “That in Para 7, it is denied that the deceased, claimed upon, held any valid rail journey ticket, pass or authority to travel. He was not a bonafide passenger. As such the instant claim application is not maintainable.”</i> <i>Para 10: “That the case does not fall within the ambit of Sections 123(c) (2)/124(A) of the Rlys. Act 1989. The deceased, claimed upon, was not a bonafide passenger on the alleged train.”</i>
i	Averments in reply in DRM’s Report: (in verbatim) <i>“रेलवे एक्ट की धारा 124 (ए) के अन्तर्गत प्रदत्त शक्तियों के तहत निरीक्षक रे.सु.ब. उरई के द्वारा जाँच की गई मामले में संलग्न पत्रावली एवं पुलिस रिकार्ड से स्पष्ट होता है कि मृतक रंजीत कुमार राय के पास पंचनामा में एक यात्रा टिकट डी 99198800 एक्स0 अहमदाबाद से दरभंगा का दर्शाया गया है मृतक उपरोक्त गाड़ी के गेट पर खड़े होकर या पायदान पर बैठकर यात्रा कर रहा होगा। किसी कारणवश चलती गाड़ी से गिरकर मृत्यु को प्राप्त हुआ। अगर मृतक अन्य यात्रियों की तरह कोच के अन्दर बैठकर या रहकर यात्रा कर रहा होता तो उक्त घटना घटित नहीं होती। जो गाड़ी के दरवाजे पर खड़े होकर या पायदान पर बैठकर कर रेल अधिनियम की धारा 156 के तहत दण्डनीय अपराध है। मृतक की मृत्यु स्वयं की लापरवाही के कारण हुई है जिसके लिये वह स्वयं जबाबदार है। रेल प्रशासन की कोई जबाबदारी नहीं है।”</i>

2. Upon pleadings of the parties, four issues were framed on 09/11/2017: -

- 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 an untoward incident as defined U/S 123(c) (2) read with Section 124-A of Rlys. Act, 1989?
- 3) Whether the applicants are only dependants of the deceased?
- 4) To what Relief?

3. The applicant no. 1 Smt. Suneeta Devi tendered an affidavit as AW/1. She was cross examined and discharged. Applicant had furnished certain documents which are marked Exhibits as under:

1	Copy of Aadhar Card of Suneeta Devi	Exhibit A/1
2	Copy of Rail Journey Ticket	Exhibit A/2
3	Copy of Station Master Memo	Exhibit A/3
4	Copy of Panchnama	Exhibit A/4
5	Copy of Post-Mortem Report	Exhibit A/5

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 R. K. Rajak, ASI/RPF/Post- Orai, 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 a memo was sent by Assistant Station Master/Kalpi to Thana Incharge/GRP/Kalpi on 20/04/2015 at 2200 hrs that ASM/Ata railway station had informed that a dead body of an unknown person was lying in station yard near the name board of the station towards the Orai end and it is mentioned that a person fell down from train no. 19165 down Sabarmati Express and necessary action may be taken.
7. The Panchnama proceedings of the deceased started at 0900 hrs of 21/04/2015 and were completed at 1100 hrs on the same day. It was mentioned that first informer Shri Rajnish Kumar/Pointsman/Kalpi stated that the deceased had fallen from train and died due to injuries on account of it. It was also mentioned in the Panchnama that as per enquiry done by Constable Shri Rakesh Kumar, the cause of death of the deceased was due to his fall from a train. It was mentioned in the Panchnama that

during Jamatalashi, a rail journey ticket bearing number D-99198800 from Ahmedabad to Darbhanga dated 19/04/2015 was found from the body of the deceased and that a voter ID card was also found which helped identified the deceased and inform his relatives. It was also mentioned that one boy Shri Ajay Kumar Roy had approached GRP/Orai, who had submitted that he was the son of the deceased and stated that the deceased had fallen from running train due to extra rush in the rail compartment. In the opinion of the Panchas, the cause of death of the deceased was on account of falling from train and due to serious injuries on account of it.

8. The Post-Mortem of the body of the deceased was done between 1300-1400 hrs of 22/04/2015. The immediate cause of death given in the Post-Mortem Report was due to shock and haemorrhage due to ante mortem injuries.
9. The applicant had filed an affidavit in which he reiterated the facts made in the original application. During the cross examination, she had stated that her younger son had informed her about the incident, who was travelling with the deceased.
10. The respondent had got the veracity of the ticket found with the deceased checked and had stated that it was genuine.

11.The respondent had stated that on the basis of available records and evidence and enquiry report, it was apparent that the deceased was a bonafide passenger but had argued that the deceased fell from the train as he was travelling on the gate or foot board and, therefore, respondent railway is not responsible for his death and the deceased had died due to his own negligence.

12.The Respondent Railway had stated in their reply that the respondent is fully protected under exemption clause of section 124A of Railways Act 1989 and the act of the applicant is a self-inflicted attempt caused by his own criminal act. On the concept of ‘self-inflicted injury’ it would be apposite to draw from the judgement of Hon’ble Supreme Court in Rina Devi versus Union of India (CA No 4945 of 2018(SLP (Civil)No.10223 @ D.No.6059/2018) in which it held that:

“16.6 We are unable to uphold the above view as the concept of ‘self-inflicted injury’ would require intention to inflict such injury and not mere negligence of any particular degree.

Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on ‘no fault theory’. We may in this connection refer to judgment of this Court in United India Insurance Co Ltd., versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on ‘no fault theory’ under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an ‘untoward incident’ entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor.”

13. Therefore, in view of the facts and circumstances of the present case and law applicable thereon, it has been proved on record that the deceased was a bonafide passenger and died 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 issues no. 1&2 are decided in favor of the applicants and against the respondent railway.

Issues No 3&4

14. In order to prove their relationship with the deceased, the applicants have placed on record, Ration Card issued by Food and Supply Department of Bihar, district- Madhubani stating that the deceased was the son of applicant no. 4 and 5. The applicant no. 1 had submitted her ID card issued by Election Commission of India and her Aadhar Card, to establish her relationship with the deceased. Similarly, applicant no. 2 and 3 had submitted their Aadhar Cards to establish their relationship with the deceased. In the affidavit filed before the Bench as well as during the cross-examination, the applicant Suneeta Devi had submitted that the deceased was her husband and she, her children and the parents of the deceased are the only dependent of the deceased. There is nothing on record to disbelieve the said evidence of the applicants to establish their relationship with the deceased. The applicants, wife, sons and parents of

the deceased are dependents of the deceased as defined in the Railway Act 1989. Hence, these issues are also decided in favor of the applicants and against the respondent railway.

15. 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 the incident date is 20/04/2015, hence the applicants are entitled for an amount of Rs. 8,00,000/- (Rupees Eight Lakh Only). Therefore, relying upon the judgment rendered by the Hon'ble High Court, Delhi in the case of *Geeta Devi* (supra) and in pursuance of Rule 5 quoted above, in the present case, the amount of award shall be disbursed in the following manner:-

O R D E R

16. The applicants are entitled for an award for an amount of Rs. 8,00,000/- (Rupees Eight Lakh Only).
17. The applicant no. 1 Suneeta Devi wife of Late Ranjeet Kumar Rai @ Ranjeet Kumar Ray is entitled to an amount of Rs. 5,00,000/- (Rupees Five Lakh Only) and permitted to withdraw Rs. 50,000/- (Rupees Fifty Thousand Only) from her respective share of compensation awarded to her through ECS and the balance amount of Rs. 4,50,000/- (Rupees Four Lakh Fifty Thousand Only) from her share should be invested in a fixed deposit for a period of three years in any nationalized Bank.
18. The applicant no. 2 Amarjit Kumar Ray and applicant no. 3 Ajay Kumar Roy having become adults now, are entitled to an amount of Rs.

1,00,000/- (Rupees One Lakh Only) each and permitted to withdraw Rs. 10,000/- (Rupees Ten Thousand Only) each from their respective shares of compensation awarded to them through ECS and the balance amount of Rs. 90,000/- (Rupees Ninety Thousand Only) from each of their share should be invested in a fixed deposit for a period of three years in any nationalized Bank.

19.The applicant no. 4 Bhola Prasad Ray and applicant no. 5 Sukmari Devi are entitled to an amount of Rs. 50,000/- (Rupees Fifty Thousand Only) each and permitted to withdraw Rs. 5,000/- (Rupees Five Thousand Only) each from their respective shares of compensation awarded to them through ECS and the balance amount of Rs. 45,000/- (Rupees Forty-Five Thousand Only) from each of their share should be invested in a fixed deposit for a period of three years in any nationalized Bank.

20.The amount invested in FDR along with interest upon maturity of FDR should be credited in their saving account without recourse to this Tribunal. The monthly accruals of the fixed deposit should also be credited in their savings bank account.

21.The Respondent Railway Administration is hereby directed to deposit the awarded amount in suitor's account of the Additional Registrar of this Tribunal within a period of 60 days from the date of communication of the award failing which applicants 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 applicants are hereby directed to submit the details of their Aadhar linked Bank accounts of a Nationalized Bank situated nearest to their place of residence to the Additional Registrar of this Tribunal. The Bank shall not permit any joint name(s) to be added in their saving bank account or fixed deposit account i.e. their 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 applicants. 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 each the applicants 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 applicants 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 each of the

applicants to withdraw money from their 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 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.

29.Fix on 31/07/2024 for hearing on compliance report and payment status from both the parties of the above order.

Date:30/04/2024

(Mukesh Nigam)
Vice-Chairman (Technical)