

**RAILWAY CLAIMS TRIBUNAL  
AMARAVATI BENCH, GUNTUR**

**Coram: Gyan Prakash Tewari, Member Judicial  
G. John Prasad, Member Technical**

Claim Application : OA II (u) 1160/2020  
Date of filing : 09.11.2020  
Date of decision : 26.09.2023

1. Uttam Bachha, S/o Dularnani Bachha,  
Aged 50 years, Occ: Coolie,  
R/o Rengali, Belpara, PO – Bagdor,  
Balangir, Odisha. PIN – 767 026.
2. Mahima Bachha, W/o Uttam Bachha,  
Aged 45 years, Occ: Coolie,  
R/o Kapilavata, Tetelpara, Kapalabhata,  
Balangir, Odisha. PIN – 767 040.

Applicants.

**Versus**

Union of India represented by  
The General Manager,  
East Coast Railway, Bhubaneswar.

Respondent.

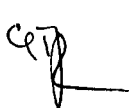
**Claim for Rs.8,00,000/- (Along with interest)**

|                    |   |                             |
|--------------------|---|-----------------------------|
| Shri N.P.Rao       | - | Ld. Counsel for Applicants. |
| Shri N,Vara Prasad | - | Ld. Counsel for Respondent  |

**JUDGEMENT**

1. This claim application is filed by applicants under Section 16 of RCT Act, 1987 read with Section 124A and 125 of Indian Railways Act, 1989 seeking compensation to the tune of Rs.8,00,000/- with interest from respondent railway, for the death of their daughter Koushalya Bachha (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 10.06.2020.

2. It is pleaded in the OA that the deceased was a native of Kapalabhata of Balangir District, Odisha State. Applicant Nos.1 & 2 are parents of the deceased Ms.Kousalya Bachha. As per applicants, prior to the incident the deceased along with her parents and her younger brother were doing coolie works at Gummidipundi, Tiruvallur District of Tamilnadu State and they worked there for a period of six months.

3. Due to lockdown period of Covid-19 they decided to go to their native place. Accordingly, the deceased along with her parents and brother went to Tiruvallur Railway station in the afternoon hours on 9.6.2022, there she purchased individual second class train journey tickets for all the four members bearing No.UMG 40962048, UTSC2G5C05108 from Tiruvallur to Balangir. All the four of them boarded Tr No. 06452 Tiruvallur to Balangir Sramik Special Train in second class general compartment and left. While travelling, due to heavy rush of passengers in the compartment, deceased Kousalya Bachha went to wash basin and there she slipped and fell down accidentally from the said running train at KM No. 853/3-2 in between Pendurthi and Kottavalasa Railway stations due to speed jolts, and sudden jerks of the train. As a result, she sustained severe head injuries and died on the spot in the morning hours of 10.06.2020 at about 05:30 Hrs.

4. Respondent has filed written statement denying its liability and submitted further that there is no cause of action for applicants as the claim does not fall within the ambit of Section of 123 (c) or 124A of Railways Act, 1989. Further, respondent submitted that in the statutory enquiry it has been established that the prior to death, deceased fallen down from train due to her own negligence from Pendurthi – Kottavalasa Railway stations while she was tooth brushing at wash basin near door of compartment. Railway does not have any foul play or negligence on its part.

5. From the pleadings, following issues were framed on 23.07.2021:

1. *Whether the Applicant(s) is/are dependant(s) of the deceased?*
2. *Whether the deceased was a bonafide passenger of the Train in question and died as a result of an untoward incident?*
3. *Whether the Applicant(s) is/are entitled to the compensation as claimed?*
4. *To what relief?*

6. In support of his case, Applicant No.1 has filed his affidavit as examination in chief as AW.1 and he was cross-examined by the Counsel for Respondent on 31.08.2023. Documents filed by the applicants are marked as Ext.A-1 to Ext.A-9 and proved are as under:



- |                                                 |   |          |
|-------------------------------------------------|---|----------|
| 1) Attested copy of journey ticket              | - | Ext.A.1. |
| 2) Attested copy of First Information Report    | - | Ext.A.2. |
| 3) Attested copy of Inquest Report              | - | Ext.A.3. |
| 4) Attested copy of PME                         | - | Ext.A.4. |
| 5) Original Death Certificate                   | - | Ext.A.5. |
| 6) Photo copy of Aadhaar Card of Applicant No.1 | - | Ext.A.6. |
| 7) Photo copy of Aadhaar Card of Applicant No.2 | - | Ext.A.7. |
| 8) Photo copy of Aadhaar Card of deceased.      | - | Ext.A.8. |
| 9) Legal Heir Certificate                       | - | Ext.A.9  |

Gist of deposition of the witness is that they are native of Odisha state and prior to the incident, they were working as labour in brick making industry in Tiruvallur district of Tamilnadu. During Covid-19 time due to problem with a view to return to his native place, they all four members reached Tiruvallur Railway station at 11 Hrs. There, the deceased purchased four individual tickets to her parents, for her brother and for herself to travel by Shramik Special train from Tiruvalluru to Balangir. During their return journey hour, in the morning of 10.06.2020 when her daughter was brushing near wash basin, she accidentally fell down and died. After the incident, Guard and Station Master have also attended the place of incident and Police have enquired and recorded their statements.

7. Respondent has not examined any witness but submitted DRM report, which is marked as Ext.R-1.

8. Heard both side counsels and perused the entire material placed on record. The following are the findings on the issues framed.

#### FINDINGS

**Issue No.2** Whether the deceased was a bonafide passenger of the train in question and died as a result of an untoward incident?

**For the sake of convenience, this issue is taken up first.**

9. In order to get compensation from respondent railway in Railway Accidents Untoward Incidents cases, two necessary ingredients are to be proved U/s 123 (c) (2) of the Railways Act, 1989 which is **bonafide passenger** and **untoward incident**.

**Bonafide Passenger:**

To conclude the bonafide status of the deceased, as per claimants, they are native of Kaplabhata of Balangir District, Odisha State and parents of the deceased Ms.Kousalya Bachha. According applicants, prior to the incident the deceased along with her parents and her younger brother were doing coolie works at Gummidipundi, Tiruvallur District of Tamilnadu State and they worked there for a period of six months. With a view to return to their native place during lockdown period of Covid-19, the deceased along with her parents and brother went to Tiruvallur Railway station in the afternoon hours on 09.06.2022, and purchased individual second class train journey tickets for all of them bearing No.UMG 40962048, UTSC2G5C05108 for their journey from Tiruvallur to Balangir. All the four of them have boarded in Tr No. 06452 Tiruvallur to Balangir Sramik Special Train in second class general compartment and left. While travelling, due to heavy rush of passengers in the compartment, deceased Kousalya Bachha went to wash basin and slipped and fell down there accidentally from the said running train at KM No. 853/3-2 in between Pendurthi and Kottavalasa Railway stations due to speed jolts, and sudden jerks of the train. As a result, she sustained severe head and other multiple injuries and died on the spot in the morning hours of 10.06.2020 at about 05:30 Hrs. As per applicants, deceased was travelling by holding a valid train journey ticket and she fallen down from a running train during journey hour which is covered under the provision of untoward incident. Hence, she was a bonafide passenger at the time of incident. On the other hand, Respondent Railway argued that deceased died due to her own negligence hence, claim application is not maintainable.

10. Moreover, applicants have filed a photocopy of the journey ticket which is proved as Ext.A-1. It is further important to say that applicants are parents of the



deceased as well as eye-witness to the incident. So far as railway is concerned during statutory enquiry (Ext.R-1), they have admitted the bonafide status of the deceased. Hence, it can be safely concluded that at the time of incident deceased was travelling with a valid train journey being a bonafide passenger.

**(b) Untoward Incident:**

11. As per applicants, during incident, deceased was travelling as a bonafide passenger. While travelling, in the early morning hours on the next day, she went to the wash basin area. Due to sudden jerks and jolts of the running train, she accidentally fell down from running train, as a result, she suffered severe head and multiple injuries and died on the spot. Respondent, refuted the arguments advanced by applicants, stating the deceased died due to her own negligence.

12. From perusal of the case file, it is found that according to applicants incident happend in the morning hours at about 05:30 am on 10.06.2020 and at that time they were also travelling along with the deceased and after the fall, they have applied ACP to stop the train but train halted at Kottavalasa Railway station. Along with other family members, Applicant No.1 got down from the train and rushed to the guard of the train and other concerned railway officials and reported the accidental fall of his daughter. Wife of Applicant No.1 continued her journey to her native place by the same train. Meanwhile, Applicant No.1 accompanied by Railway Police went to the place of occurrence and found dead body his daughter lying by the side of the track in between Kottavalasa and Pendurthi Railway Stations. Applicant No.1 deposed as AW-1 and proved the documents viz., Photocopy of the journey ticket (Ext.A-1), FIR (Ext.A-2), Inquest report (Ext.A-3), PME (Ext.A-4), Death certificate of the deceased (Ext.A-5) and nothing found false during cross examination by the respondent railway. So far as Railway is concerned, after the incident Train No. 06432 Shramik Special suffered a detention

due to ACP. Immediately, Train guard and Railway officials along with police personnel reached the coach No. SR 07550 (G-2). They have enquired the matter and found that applicant along with his son and one relative got down after the detention of the train and informed them about the incident. Railway officials have taken notice of the deceased at KM No.853/3-2 in between Kottavalasa and Pendurthi Railway stations and reported the incident to the SS/Kottavalasa & Visakhapatnam along with GRP & RPF for necessary action at their end. It is further observed that during statutory enquiry, respondent railway has admitted the facts as stated in the claim application and concluded that the deceased died due to accidental fall from the running train holding a valid ticket while travelling in Shramik Special train from Thiruvallur to Balangir. Hence, death of the deceased is established as untoward incident which is covered under the proposition of Section 123 (C) (2) of Railways Act, 1989. So far as arguments advanced by Respondent Railway is concerned, that deceased died due to her own negligence during journey hour. It would be pertinent to mention that the negligence has no important role in a case based on principle of strict liability like railway untoward incident. Hence arguments as advanced by Railways has no substance and accordingly it can be safely concluded that deceased was a bonafide passenger at the time of incident and the incident falls under the ambit of untoward incident. So that, it is held that the deceased died during journey hour in an untoward incident which is covered under the purview of Section 123 (C) (2) and Section 124A of Indian Railways Act, 1989. Accordingly, Issue No.2 is decided in favour of applicants and against Respondent.

**Issue No.1: Whether the Applicant(s) is/are dependant(s) of the deceased?**

13. Originally this OA is filed by parents of the deceased. To prove their relationship with the deceased, they have filed Legal Heir Certificate issued by

QTP AM

There is no objection from respondent side about inter-se relationship of the applicants and even their relationship with the deceased. Hence, Issue No.1 is also decided in favour of applicants.

**Issue Nos.3 & 4: Whether the Applicant(s) is/are entitled to the compensation as claimed? and to what relief?**

14. During the disposal of Issue Nos. 1 & 2, it is found that the deceased died due to accidental fall from a running train holding a valid train journey ticket which is an untoward incident. It is also proved that the Applicants are parents of the deceased, therefore they are entitled to get compensation of Rs.8,00,000/- (Rupees Eight lakhs only) from Respondent along with interest at the rate of 9% per annum from the date of accident till the date of realization.

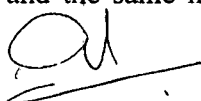
15. In the result, the claim of Applicants is liable to be allowed.

**ORDER**

16. Claim application is allowed. Respondent is directed to pay the Applicants a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) along with interest @ 9% per annum from the date of incident in the following manner:-

- (i) A sum of Rs.4,00,000/- (Rupees Four Lakhs only) each is awarded in favour of Applicant Nos.1 & 2. Out of said amount, a sum of Rs.40,000/- (Rupees Forty Thousand only) each shall be released in their favour through ECS and remaining amount Rs.3,60,000/- (Rupees Three Lakh Sixty Thousand only) each shall be kept in 36 fixed deposits of Rs.10,000/- each for a period of one month to 36 months, with cumulative interest. The maturity amounts of the FDR(s) be credited through ECS in the respective Savings Bank Accounts of the Applicant Nos.1 & 2 near the place of their residence.
- (ii) The entire accrued interest on compensation amount of Rs.8 lakhs i.e., from the date of incident till the date of realization shall be disbursed in proportion to the awarded amount and the same may be paid through ECS mode to applicants.

Setp



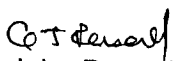
- (iii) Respondent is directed to pay the total amount within 60 days from the date of receipt of requisite mandate forms, failing which the Applicants shall be entitled to interest @ 9.5% p.a. thereafter from the date of submission of mandate form till the date of payment.
- (iv) The bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the claimant(s) i.e. the savings bank account(s) of the claimant(s) shall be an individual savings bank account(s) and not a joint account(s).
- (v) The applicant(s) shall furnish details and documents such as Aadhar Card, PAN Card, any other appropriate ID card, two sets of photographs and their specimen signatures, bank pass book with endorsement that no cheque book/debit card is issued to the account holder, along with mandate forms within 30 days from the date of receipt of this order, failing which they forfeit the interest portion for the delay after 30 days till the submission of mandate forms.
- (vi) The concerned Bank is also directed to accept form No.15G/15H, as the case may be, to ensure that whatever amount is taxable, appropriate steps has to be taken by the concerned bank before releasing the amount through ECS.
- (vii) The original fixed deposit shall be retained by the concerned bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the applicants.
- (viii) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
- (ix) 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. The bank shall debit card(s) freeze the account of the applicant(s) so that no debit card be issued in respect of the account of the applicant(s) from any other branch of the bank.
- (x) Bank shall not create any charge, mortgage, or hypothecation on said amount.
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(xi) Railways as well as Applicant(s) are required to submit compliance report on the action taken in terms of above noted directions as early as possible and not beyond 90 days from the date of receipt of this order.

17. In the facts and circumstances of the case, there is no order as to costs.

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

  
(G. John Prasad)  
Member Technical

  
(Gyan Prakash Tewari)  
Member Judicial

#### APPENDIX

##### WITNESSES EXAMINED FOR APPLICANT:

1) AW.1 - Uttam Bachha

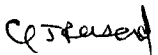
##### DOCUMENTS MARKED FOR APPLICANTS:

- |                                                 |   |          |
|-------------------------------------------------|---|----------|
| 1) Attested copy of Journey ticket              | - | Ext.A.1. |
| 2) Attested copy of First Information Report    | - | Ext.A.2. |
| 3) Attested copy of Inquest Report              | - | Ext.A.3. |
| 4) Attested copy of PME                         | - | Ext.A.4. |
| 5) Original Death Certificate                   | - | Ext.A.5. |
| 6) Photo copy of Aadhaar Card of Applicant No.1 | - | Ext.A.6. |
| 7) Photo copy of Aadhaar Card of Applicant No.2 | - | Ext.A.7. |
| 8) Photo copy of Aadhaar Card of deceased.      | - | Ext.A.8. |
| 9) Legal Heir Certificate                       | - | Ext.A.9. |

WITNESSES EXAMINED FOR RESPONDENT: NIL

##### DOCUMENTS MARKED FOR RESPONDENT:

1) Ext.R.1 - Divisional Railway Manager's Report.

  
(G. John Prasad)  
Member Technical

  
(Gyan Prakash Tewari)  
Member Judicial