

**BEFORE THE RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

CORAM

Ms. R. Sathyabama - Hon'ble Member Judicial
Sri G. John Prasad - Hon'ble Member Technical

OA II (u) 119/2023

Date of filing : 23.08.2022
Date of decision : 06.01.2025

APPLICANTS:

1. Amrit Ram Panika, S/o. Ramanrayan Panika, Aged 42 Yrs.
2. Maheshvari Panika, W/o. Amrit Ram Panika, Aged 37 Yrs.

R/o. Virendra Nagar Village,
Balrampur District,
Chattisgarh State. PIN – 497 225.

Versus

RESPONDENT:

Union of India rep. by
its General Manager,
South Central Railway,
Secunderabad

Claim for Rs.16,00,000/- (With interest)

Shri M.L.Reddy - Ld. Counsel for Applicants.
Shri Sk.M.Ahamed - Ld. Counsel for Respondent.

JUDGEMENT

1. This claim application was filed by the parents of the deceased under Section 16 of RCT Act, 1987 read with Section 124-A and 125 of Indian Railways Act, 1989 seeking compensation to the tune of Rs.16,00,000/- with interest from Respondent Railway, for the death of Anil Kumar Panika , S/o. Amrit Ram Panika (herein after referred to as "the deceased") who died allegedly in an untoward incident of accidental fall from the train carrying passengers that occurred in the intervening night hours of 28/29-07-2018.

OA II (u) 119 of 2023

2. As per the claim application, the deceased was resident of Virendra Nagar Village of Chattisgarh State and he was a daily labourer by profession. On 27.07.2018, the deceased along with six friends was travelling from Singrouli Jn to Chennai Central by Tr No. 12616 GT Express, by purchasing individual general ticktes and ticket of the deceased was bearing No.87272927 dt. 27.07.2018 and valued Rs. 425/-. During the course of the travel, when the train was negotiating between Applikatla and Bapatla stations i.e., at KM No. 357/13-15, the deceased accidentally fell down from train and thereby he sustained severe injuries and lying at the place of incident in injured condition. His friends/co-passengers who witnessed the incident pulled the ACP and informed about the incident to the staff of Bapatla station and rushed to Accident spot and found their friend in injured condition, who was struggling for life. Immediately they have called for 108 ambulance and shifted him to Govt., Hospital/Bapatla where the duty doctor declared him brought dead at about 02:20 am on 29.07.2018.

3. The Respondent Railway filed a detailed written statement along with the report of Divisional Railway Manager denying all the averments made in the claim application. It is further submitted by the Respondent that there is no cause of action for the applicants as the claim does not fall within the ambit of Section 123 (c)(2) or 124-A of Railways Act, 1989. The respondent denies the veracity of all documents filed by the applicants. Respondent has further denied that six friends of the deceased who were co-passengers and witnessed the incident at the time of incident. The respondent submits that the body of the deceased was found lying i.e., at KM No. 357/13-15 when the train was negotiating between Bapatla and Applikatla Stations and there was no cogent evidence to the incident. Hence, prayed for appropriate decision as deemed fit in this case.

4. Basing on the pleadings of both sides, following issues were framed:

- 1) *Whether the deceased was a bonafide passenger of the train in question and died as a result of an untoward incident?*



- 2) *Whether the Applicant(s) is/are dependent(s) of the deceased?*
- 3) *Whether the Applicant(s) is/are entitled to the compensation as claimed.*
- 4) *To what relief?*

5. In support of the claim, Applicant No.1 i.e., father of the deceased filed his affidavit as AW.1 and deposed before this Tribunal. Documents filed by the applicants are marked as under:-

- | | | |
|--|---|----------|
| 1) Attested copy of FIR | - | Ext.A.1. |
| 2) Attested copy of Inquest Report | - | Ext.A.2. |
| 3) Attested copy of Post Mortem Certificate | - | Ext.A.3. |
| 4) Train journey ticket of the deceased | - | Ext.A.4. |
| 5) Tickets of Co-passengers | - | Ext.A.5. |
| 6) Family Member Certificate | - | Ext.A.6. |
| 7) Final Report | - | Ext.A.7. |
| 8) Photocopy of Aadhaar Card of Applicant No.1 | - | Ext.A.8. |
| 9) Photocopy of Aadhaar Card of Applicant No.2 | - | Ext.A.9. |

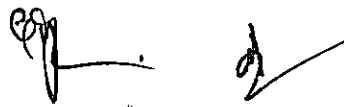
6. Respondent did not adduce any witnesses from their side. But filed DRM Report which is taken on record and marked as Ext.R.1.

7. Heard both sides Counsels and perused the case file. On consideration of materials available on record and the contentions of the Ld. Counsels appearing for both the parties, issues wise findings are recorded as follows:-

FINDINGS

Issue No.1: *Whether the deceased was a bonafide passenger of the train in question and died as a result of an untoward incident?*

8. It is the case of the applicants that on 27.07.2018 the deceased along with six friends was travelling from Singrouli Jn to Chennai Central by Tr No.12616 GT Express, by purchasing separate individual journey tickets. The Ticket meant for the deceased was bearing No.87272927, valued Rs.425/-. During the course of his journey, when the train was negotiating between Applikatla and Bapatla stations i.e., at KM No. 357/13-15, he has accidentally



fallen down from train, thereby he suffered injuries. When he was shifted to Govt., Hospital/Bapatla in the early hours of 29.07.2018, he was declared brought dead by the duty doctor. As such, the incident comes under the purview of 'Untoward Incident'.

9. At the time of filing OA, Applicants have filed attested copy of the travel ticket of the deceased (Ext. A-4) and attested copy of the tickets of his fellow co-passengers/friends i.e., six other general tickets (Ext.A-5). Besides, in the Inquest Report (Ext.A-2), Security Control message, against the relevant columns of Investigation report as well as in Joint Observation Report, in the DRM report and in CD file, details of the above ticket details of the deceased were furnished. As there was no dispute from respondent side, it can be concluded that the deceased was a Bonafide passenger. Further, regarding untoward incident, based on the facts and circumstances of the case, during the course of arguments Respondent Railway has fairly conceded the case and submitted that the interest shall be paid at the rate of 6.5% p.a., since their defence is only on the ground of negligence which was overlooked by the Apex Court judgement in Union of India Vs. Rina Devi (Civil Appeal No.4945 of 2018) and Doli Rani Saha Vs. Union of India (Civil Appeal No. 8605 of 2024). This proposal has been agreed and accepted by the Counsel for the Applicants. Therefore, the case is allowed on merits. Hence, issue No.1 is decided in favour of the Applicants accordingly.

Issue No.2: *Whether the Applicants are dependants of the deceased?*

10). Originally this OA was filed by the parents of the deceased. To prove the claim and locus to file this OA, applicants produced Family Member Certificate (Ext.A-6). Though the applicants have not produced Death Certificate of the deceased, name of the deceased was shown as dead person in the Family Member Certificate produced. Photo copy of Aadhar cards of Applicant Nos. 1 & 2 (Ext.A-8 & 9). As there is no dispute/ objection from Respondent Railway regarding interse relationship of the applicants and

their relationship with the deceased, this issue of dependency is decided in favour of the applicants.

ISSUE No. 3 & 4: *Whether the Applicant(s) is/are entitled to the compensation as claimed? and to what relief?*

11. In view of the findings on Issue Nos.1 & 2, the Applicants being parents of the deceased, are held entitled to receive compensation to the tune of Rs.8,00,000/- as prescribed under Part I of the Schedule appended to Rule 3 of "Railway Accidents and Untoward Incidents (Compensation) Amended Rules, 2016" along with interest @ 6.5% p.a. from the date of Registration of the OA on 11.08.2023 (as per Order of this Bench in MA No. 22/2022 dt. 03.08.2023) till the date of this order.

As a result, the case of Applicant is **allowed**.

ORDER

Claim is **allowed** without costs.

12. The Respondent is directed to pay the applicants a sum of Rs.800,000/- (Rupees Eight Lakhs only) along with interest @ 6.5% per annum, as agreed by both parties, from the date of registration of this case i.e., on 11.08.2023 till the date of this Order (as per Order of this Bench in MA No. 22/2022 dt. 03.08.2023) within 60 days from the date of submission of mandate form by the Applicant. The compensation amount is being disbursed in the following manner –

Sl. No	Name of the Applicants	Relationship with deceased	Age In Years as per OA	Amount awarded (Rs.)	In cash (Rs.)	As Fixed Deposit/ Annuity (Rs.)
1.	Amrit Ram Panika	Father	42 Yrs	4,00,000/-	1,00,000	3,00,000/-
2.	Maheshvari Panika	Mother	37 Yrs	4,00,000/-	1,00,000	3,00,000/-

Fixed Deposit portion shall be as per guidelines given below:-

Applicant Nos.1 & 2: Rs.3,00,000/- (Rupees three lakhs only) each shall be kept in Fixed Deposits of Rs.10,000/- each for a period of one month to 30 months in ascending order. The maturity amount of each FDR be credited in the Savings Bank

account of the Applicant Nos.1 & 2 near the place of their residence.

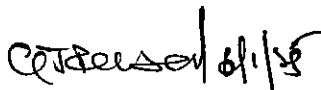
- (i) The entire accrued interest (to be calculated as mentioned in Para No.12 above) on the compensation amount shall be paid through ECS to the applicants in the same proportion as compensation awarded.
- (ii) Respondent is directed to pay the total amount within 60 days from the date of receipt of requisite mandate forms from Applicant, failing which the Applicant shall be entitled to interest @ 9% p.a. thereafter from the date of submission of mandate forms till the date of payment.
- (iii) 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).
- (iv) 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.
- (v) 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.
- (vi) 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.

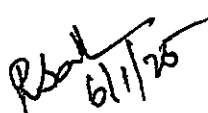
 

- (vii) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
- (viii) The concerned bank shall not issue any cheque book and/or debit card to applicants. However, in case the debit card and/or cheque book have already been issued, bank 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.
- (ix) Bank shall not create any charge, mortgage, or hypothecation on said amount.
- (x) 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.

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

14. The Registry is directed to send a free certified copy of this judgement directly to the applicants at their address 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)
TECHNICAL MEMBER


(R. SATHYABAMA)
JUDICIAL MEMBER

13

APPENDIX

WITNESSES EXAMINED FOR APPLICANT:

- 1) AW.1 - Amrit Ram Panika

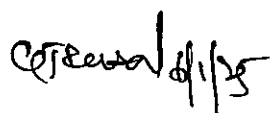
DOCUMENTS MARKED FOR APPLICANTS:

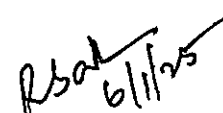
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| 9) | Photocopy of Aadhaar Card of Applicant No.2 | - | Ext.A.9. |

WITNESSES EXAMINED FOR RESPONDENT: NIL

DOCUMENTS MARKED FOR RESPONDENT:

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


(G. JOHN PRASAD)
TECHNICAL MEMBER


(R. SATHYABAMA)
JUDICIAL MEMBER