

**RAILWAY CLAIMS TRIBUNAL, AMARAVATHI BENCH
AT GUNTUR**

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**HON'BLE JUSTICE ANANT KUMAR,
VICE CHAIRMAN (JUDICIAL), RCT, SECUNDERABAD**

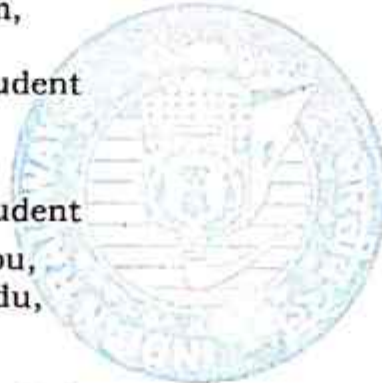
**HON'BLE N.MADHUSUDAN RAO,
MEMBER (TECHNICAL), RCT, SECUNDERABAD**

(ON CIRCUIT BENCH THROUGH VIRTUAL HEARING)

OA II (U) No.172 OF 2019

Date of Filing : 21.10.2019
Date of Decision : 19.01.2024

1. Janapareddy Kalyani,
W/o Late J.Raju,
Age: 40 years, Occ: Housewife
2. Janapareddy Gowtham,
S/o Late J.Raju,
Age: 13 years, Occ: Student
3. Janapareddy Nikitha,
D/o Late J.Raju,
Age: 11 years, Occ: Student
4. Janapareddy Raju Babu,
S/o Late J.Appala Naidu,
Age: 65 years, Occ: Nil
5. Janapareddy Ammaji
W/o Janapareddy Raju Babu
Age: 60 years Occ: Household



All Applicants R/o H.No.1-1,
Garuvu Veedhi, Kothakota,
Ravikamatham Mandal,
Vishakhapatnam District,
Andhra Pradesh-531114

...Applicants

Versus

Union of India rep.by
The General Manager,
East Coast Railways,
Bhuvaneshwar.

...Respondents

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Present:-

Counsel for the Applicant
Counsel for Respondent

: Shri. A.Satyanarayana
: Shri SK.M.Ahammad

J U D G M E N T

- 1) The applicants Janapareddy Kalyani and others filed this application under Sec.16 of Railway Claims Tribunal Act 1987 Sec.123 (2), 124-A and 125 of the Railway Act 1989, for claiming compensation of Rs.16,00,000/- with interest for the death of J.Raju (hereinafter referred to as deceased) in an alleged untoward incident that occurred on 19.06.2019.
- 2) The case of the Applicants is that, on 19.06.2019 the deceased along with his wife went to Vishakhapatnam Railway Station, purchased one journey ticket bearing No.01676858 from Vishakhapatnam to Tirupathi and boarded Tirumala Express. During the travel, due to heavy rush and sudden jerks of the train, deceased accidentally slipped and fell down from running train between platform and track. Immediately Railway Authorities shifted him to Government Hospital, Vishakhapatnam and while undergoing treatment he died
- 3) The Respondent Railway filed Written Statement denying various averments made in the application and has put the applicants to strict proof of the same. Respondent submitted that the train starts from the same station and the train was not in motion as the Journey has not commenced. The mere version that some injuries were caused to a person due to his own carelessness in the Railway premises not attributable on the Railway Administration cannot be squarely classified as an Accident or untoward incident as mentioned in I.R. Act 1989. The Inquest report shows that



Deceased passenger boarded the General Bogie which was filled with passengers. When the Train started from Platform No.2 due to heavy rush in the coach, and due to jerks of the train, he accidentally fell down from the train, suffered severe injuries and was shifted to KGH where he died on account of the same. The wife of Deceased did not give any report to the police. The Inquest report also shows that the Deceased and his wife reached station at about 12:00 noon as per the timing on the Journey Ticket which shows that there cannot be possibility of heavy rush in the Train so as to cause to Accidental fall of the Deceased from the train at the time of Boarding the same. The version of the Applicants highly doubtful and cannot be taken into consideration to be true. Respondent also disputed the veracity of all the documents filed by the applicants. Further, Respondent prayed this Hon'ble Tribunal to dismiss the application with costs in the interest of justice.

4) On the strength of the above pleadings, the following issues were framed:-

- 1) Whether the Applicant(s) is/are Dependents 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) are entitled to compensation as claimed?
- 4) To what relief?

5) Applicant No.1 filed affidavit as AW.1 and documents filed by her are marked as Ex.A1 to A7. On behalf of Respondent, none were examined. Divisional Railway Manager Report was filed and marked as Ex.R1.



6) Heard the arguments of learned Counsel's for the Applicant and Respondent. On considering the material documents available on record and the contentions of the learned counsel for both the parties the findings on the issues are recorded as follows:-

FINDINGS

For the sake of convenience issue No.2 and 3 are taken first:

ISSUE NO. 2 & 3 :

7) According to applicants, on 19.06.2019 the deceased along with his wife went to Vishakhapatnam Railway Station, purchased one journey ticket bearing No.01676858 from Vishakhapatnam to Tirupathi and boarded Tirumala Express. During the travel, due to heavy rush and sudden jerks of the train, deceased accidentally slipped and fell down from running train. Immediately Railway Authorities shifted him to Government Hospital, Vishakhapatnam and while undergoing treatment he died.

8) To support their claim application AW1 filed Ex.A1 - Attested copy of FIR, Ex.A2 - Attested Copy of Inquest Report along with translation, Ex.A3 - Attested Copy of PME Report, Ex.A4 - Original Train Journey Ticket bearing No.01676858, Ex.A5 - Original Death Certificate, Ex.A6 - Original Family Member Certificate and Ex.A7 - Copy of Aadhar Card of Applicant No.1.

9) Ex.A1-Attested copy of FIR bearing No.187/2019 dt.19.06.2019 was registered on basis of complaint given by PVSR Suresh- Onduty Station Superintendent/Vishakhapatnam, that on 19.06.2019 prior to 16:30hrs one male person accidentally fell from train on platform No.2 of




Vishakhapatnam Railway Station, he was shifted to KGH Hospital and while undergoing treatment he died due to injuries.

10) Ex.A2 Inquest report states that Inquest was attended by Wife, relatives of the deceased and other Panchayatdars. Para(7) of the report records injured sustained a cut wound on the right side of waist. Further it records that deceased wore one brown colour pant, white colour cut banian and brown and white colour shirt. One Railway general journey ticket for two adults bearing No.01676858 dt.19.06.2019 costing Rs.410/- was found with the deceased. Para(XV) of the inquest report is the unanimous opinion of the Panchayatdars which states that *"...deceased along with his wife with a view to go to Tirupati, started from his village on 19.06.2019 at 13:00hrs, reached Visakhapatnam Railway station, purchased combined general ticket bearing No.01676858 for himself and his wife and reached Platform no.2. On arrival of Tirumala express, he along with his wife boarded General bogie which was packed with rush and when the train started from platform no.2 at about 14:30hrs due to heavy rush in the general coach and due to jerks of the train, he accidentally fell down from the train between platform and train, sustained severe injuries on the right side of waist with cut and severe blood loss. Immediately he was shifted KGH for treatment where he succumbed to injuries."*

11) Ex.A3 - PME Report states that PME was conducted at 11:30AM on 20.06.2019. The report places approximate time of death is 18-24hrs prior to the commencement of PME and cause of death as due to "shock due to

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multiple fractures pelvic bone". Ex.A4 is the original combined train journey Ticket bearing No.01676858 issued on 19.06.2019 at 12:07hrs from Vishakhapatnam to Tirupati for two adults in II Mail/Express costing Rs.410/-. Ex.A5 is the Original Death Certificate issued by Government of Andhra Pradesh, it records that Janapareddy Raju died on 19.06.2019 at Platform No.2 Visakhapatnam Railway Station. Ex.A6 is the Family Member Certificate issued by Government of Andhra Pradesh, certifying family members of Janapareddy Raju. Ex.A7 is the copy of Aadhar Card of Applicant No.1.

12) Applicant No.1 filed affidavit as AW1 in which she stated that on 19.06.2019 she along with her husband went to Vishakhapatnam Railway Station purchased one combined journey ticket bearing No.01676858 costing Rs.410/- for two adults from Vishakhapatnam to Tirupati and boarded Tirumala Express. Suddenly her husband fell down from the train in between train and platform. Immediately, Railway Authorities shifted her husband to KGH Hospital, where he was declared dead while undergoing treatment. During her cross examination AW1 reiterated the same facts mentioned in her affidavit and also stated that she is not the eye witness to the fall. AW1 also denied that her husband fell down while he tried to board the empty coach of the train while it was being place on the platform

13) Respondent filed Divisional Manager Report which was marked as Ex.R1. At the time of enquiry, Statement of Sri. B.Simhadri, on duty Head Constable-RPF/VSKP was recorded in which he stated that on 19.06.2019



he was deployed for P-Drive duty from Platform No.1 to 4. At the time of incident he was maintaining 'Q' system for passengers entering in Tr.No.17488 Tirumala Express. While the general coach of said train which was being admitted in platform No.2, he noticed one person trying to enter the general coach and fell down in between platform and track and got injured. He immediately pulled the injured person on to the platform with the help of his wife and co-passengers and sent him to KGH Hospital.

14) Basing on the investigation and enquiries, the DRM report concluded as follows:

"on 19.06.2019 the deceased person reached PF No:02 Visakhapatnam railway station along with his wife to proceed Tirupati by train no:17488 Tirumala Express. At about 12:45 hrs the empty rake of Train No: 17488 Tirumala express was being admitted to PF No: 2 where one RPF Head Constable B.Simhadri was performing duty to make a queue system of passengers to enter peacefully in to general coach of the said train and to avoid any untoward incidents. While the train was admitting to PF No.2 i.e. in plying motion the deceased person suddenly avoided the queue and hurriedly tried to enter into the general coach in very negligent manner for occupation seats for his family, subsequently he fell down from the alleged train as the train was in moving condition. After careful examination of the witnesses and circumstantial evidences it is concluded that the incident was occurred due to deceased gross & sheer negligence and self-inflicted. There is no any negligence or foul play on the part of Railway administration. Hence the Railway Administration is not responsible for any claims or compensation."

15) We have gone through all the documentary and oral evidence placed on record and have come to the following conclusions as under:

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- a) As far as the bonafide of the passenger is concerned, applicants have produced an original combined train journey Ticket bearing No.01676858 issued on 19.06.2019 at 12:07hrs from Vishakhapatnam to Tirupati for two adults in II Mail/Express costing Rs.410/-. Availability of said ticket with the deceased was also mentioned in Inquest Report and DRM Report. Respondent have also verified the veracity of the ticket with the Data base/IRCTC and found that the ticket to be genuine. In view of the said admission, we hold the deceased to be a bonafide passenger.
- b) Coming to the untoward incident, it is clear that from the documentary evidences that the deceased fell down while he was trying to board Tr.No.17488 Tirumala Express while it was being admitted on platform No.2. Respondent Counsel relied on the statement of Shri Simhadri on-duty Head Constable, who is the eye witness of the incident and vehemently argued that deceased tried broke the 'Q' system and tried to board the train while it was being admitted to Platform No.2, causing the deceased to fall in between train and platform. Thus Respondent submitted the fall was caused due to gross and sheer negligence of the deceased himself. Further Respondent counsel argued that the act of the injured is a criminal act, which will attract Section 124(A)(c) of the Railways Act and that Railway has no foul play with the incident .
- c) At this stage it may be relevant to take into consideration the case of Union of India Vs. Prabhakaran Vijaya Kumar and Others, reported in 2008 (2) TAC 777, has held that: the expression 'accidental falling of a



passenger from a train carrying passengers includes accidents when a bonafide passenger i.e., a passenger travelling with a valid ticket or pass is trying to enter a railway train and falls down during the process. It was held :-

"10. We are of the opinion that it will not legally make any difference whether the deceased was actually inside the train when she fell down or whether she was only trying to get into the train when she fell down. In our opinion in either case it amounts to an 'accidental falling of a passenger from a train carrying passengers'. Hence, it is an untoward incident as defined in Section 123 (c) of the Railways Act.

11. No doubt, it is possible that two interpretations can be given to the expression 'accidental falling of a passenger from a train carrying passengers', the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, in our opinion the latter of the above mentioned two interpretations i.e., the one which advances the object of the statute and serves its purpose should be preferred.....

14. In our opinion, if we adopt a restrictive meaning to the expression 'accidental falling of a passenger from a train carrying passengers' in Section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford travelling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bonafide passenger i.e., a passenger travelling with a valid ticket or pass is trying to enter a railway train and falls down during the process. In other words, a purposive, and not literal, interpretation should be given to the expression".

- d) The contention of the Respondents that the incident happened when the empty rake was being placed on the platform does not hold any

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value, since the rush in general coaches is a consequence of Respondent selling the tickets disproportionately higher to the carrying capacity of the coaches in the train. This leads to a fierce fight for entering into the train resulting in unfortunate incidents like the one we are dealing .

e) Switching back to the facts of present case, neither the genuineness of ticket filed by the applicant nor incident has been questioned by Respondent, the negligence attributed to the injured that he fell down due to his own negligence is of no consequence in terms of the law laid down by the Hon'ble Supreme Court as stated supra. In view of the evidence available on record, we have no hesitation to hold that deceased was a bonafide passenger and died in an untoward incident. These issues are answered in favour of the applicants.

f) In view of the above discussion, we hold that the deceased is a bonafide passenger and death of the deceased is on account of an untoward incident as defined under Sec.123(c)(2) of the Railways Act. Accordingly, these issues are answered in favour of the applicants.

ISSUE NO.1

16) As per the claim Application, the Applicant No.1 is the wife of the deceased, Applicant No.2 & 3 are son and daughter of the deceased and Applicant No. 4 and 5 are father and mother of the deceased. To support their relationship with the deceased, the applicants have filed Ex.A6 copy of Family Member Certificate, Ex.A7 Copy of Aadhar Card of Applicants. Respondent has not disputed the said documents. In view of this, the




applicants being wife, son, daughter, father and mother of the deceased, are held to be dependents of as defined under Sec.123(b) of the Railways Act.

ISSUE NO. 4

17) In view of the findings on issue Nos.1 & 2, the Applicants are held entitled to receive the compensation 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 @ 9% p.a. from the date of accident to the date of payment.

18) In the result, it is, therefore,

Ordered

that the claim application of Applicants is hereby allowed, on contest, but without costs.

19) The Respondent Railway is directed to deposit a sum of Rs.8,00,000/- with interest @ 9% p.a. from the date of accident to the date of deposit, with the Additional Registrar of this Bench within a period of 30 days from the date of receipt of copy of this order, failing which respondent shall be liable to pay interest @ 10% p.a. thereafter till the date of deposit. The amount so deposited shall be disbursed in the following manner.

- (i) A sum of Rs.5,00,000/- (Rupees five lakhs only) is awarded to Applicant No.1. Out of said amount, a sum of Rs.50,000/- (Rupees fifty thousand only) along with accrued interest in the same proportion as compensation shall be released in her favour through Electronic Clearing System (ECS) and remaining amount Rs.4,50,000/- (Rupees Four Lakh Fifty Thousand) shall be kept in 60 fixed deposits of Rs.7,500/- for the period of one month to 60 months respectively with cumulative interest. The maturity amounts



of the FDR(s) be credited by ECS in the savings bank account of the applicant No.1 near to the place of their residence.

- (ii) A sum of Rs.1,00,000/- (Rupees one lakh only) each along with accrued interest in the same proportion as compensation is awarded to Applicants No.2 and 3 and same shall kept in fixed deposit in a nationalized bank near the place of their residence for a period till they attain the age of majority, under the guardianship of Applicant No.1 with liberty to draw quarterly interest by Applicant No.1 towards their maintenance. On attaining majority, bank to transfer to Applicants No.2 and 3 the amount deposited in their name into their saving bank account directly without approaching the Tribunal.
- (iii) A sum of Rs.50,000/- (Rupees Fifty Thousand only) each is awarded to Applicant No.4 & 5. Out of said amount, a sum of Rs.5,000/- (Rupees Five Thousand only) each along with accrued interest in the same proportion as compensation shall be released in their favor through Electronic Clearing System (ECS) and remaining amount Rs.45,000/- (Rupees Forty Five Thousand only) each shall be kept in fixed deposit for the period of one year. On completion of tenure, the term deposit proceeds alongwith interest accrued, if any, may be paid by the bank directly to the Applicant No.4 & 5 without reference to the Tribunal.
- (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 shall furnish details and documents relating to 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.



- (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) The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Applicant(s) near the place of their residence.
 - (ix) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
 - (x) 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 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.
 - (xi) The bank shall make an endorsement on the passbook of the Applicant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the RCT and Applicant(s) shall produce the passbook with the necessary endorsement before the RCT.
 - (xii) It is clarified that the endorsement made by the bank along with duly signed and stamped by the bank official on the passbook(s) of the Applicant(s) is sufficient compliance of above clause.
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(xiii) Bank shall not create any charge, mortgage, or hypothecation on said amount.

(xiv) 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.

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


(N.MADHUSUDAN RAO)
Member (Technical)


(JUSTICE ANANT KUMAR)
Vice Chairman (Judicial)

APPENDIX

Witnesses for the Applicants:

1) AW.1 - Janapareddy Kalyani

Exhibits for the Applicants:

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|------------|---|--|
| 1) Ext.A.1 | - | Attested copy of FIR |
| 2) Ext.A.2 | - | Attested Copy of Inquest Report along with translation |
| 3) Ext.A.3 | - | Attested Copy of PME Report |
| 4) Ext.A.4 | - | Original Train Journey Ticket bearing No.01676858 |
| 5) Ext.A.5 | - | Original Death Certificate |
| 6) Ext.A.6 | - | Original Family Member Certificate |
| 7) Ext.A.7 | - | Copy of Aadhar Card of Applicant No.1 |

Witnesses for the Respondent:- NIL

Exhibits for the Respondent:

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


(N.MADHUSUDAN RAO)
Member (Technical)


(JUSTICE ANANT KUMAR)
Vice Chairman (Judicial)

MVK/-