

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

CORAM

Gyan Prakash Tewari - Hon'ble Member Judicial
G. John Prasad - Hon'ble Member Technical

OA II (u) 184/2019

Date of filing : 11.11.2019.

Date of decision : 16.10.2023.

1. K. Srinivasarao, S/o K. Hanumantha Rao,
aged about 33 years, Occ: Pvt. Employee.
2. K. Srivani, W/o. K. Srinivasarao,
aged about 29 years, Occ: Housewife.

Both are R/o.H No.2-77, Main Road, Chevitikallu,
Krishna District, A.P., Pin : 521 180

Applicants.

Versus

Union of India represented by
The General Manager,
South Central Railway, Secunderabad.

Respondent.

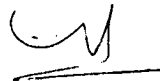
Claim for Rs.8,00,000/- (With interest)

Shri N.P.Rao - Ld. Counsel for Applicants.
Shri Sk. M. Ahamed - Ld. Counsel for Respondent.

JUDGEMENT

1. This claim application is filed by Applicants 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.8,00,000/- with interest from Respondent Railway for the death of K. Viswanadh (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 20.02.2019.

2. It is pleaded in the OA that the deceased, a 4 years Minor Boy was residing at Visakhapatnam along with his parents and with a view to attend his paternal uncle's marriage at Vijayawada, he along with his parents and sister went to Duvvada Railway station in the early hours of 20.02.2019 holding a journey cum reservation ticket bearing PNR No.6125482218 with Ticket



No.Q06581951 from Duvvada to Vijayawada for Train No.12805 Janmabhoomi Express in Coach No.D-2, Seat Nos.100 & 102. But the train they intend to board had left the station and with no other alternative to travel, they all boarded Train No.17240 Visakhapatnam – Guntur Simhadri Express in 2nd class General Compartment holding above train journey ticket and during journey hour, when the train nearing Vijayawada Railway station, they all came to entrance door of the compartment with luggage, suddenly the deceased K.Viswanadh slipped and fell down accidentally from above running train at Km.No.PRI/1001-1213B, MTM Branch line in the yard RRI of Vijayawada due to speed, jolts and sudden jerks of the said running train, as a result, he was cut into two pieces, head was broken and died on the spot in the same day afternoon hours of 20.02.2019. Parents and sister of the deceased got down from the train at Vijayawada Railway station, K.Srinivasarao, father of the deceased rushed back to the place of occurrence and found his son K.Viswanadh succumbed to injuries on the spot. Applicants are parents of the deceased. Being family members of the deceased, they filed this claim application.

3. Respondent filed written statement and denied its liability and submitted that there is no cause of action for applicants as the claim does not fall within the ambit of Section of 123 (c) or 124(A) of Railways Act, 1989. Respondent submitted that there is no evidence that the deceased fell down from running train and as per deceased's father statement, they along with deceased had come and stood near the door of the compartment of Train No.17240 Express. Respondent further submitted that the deceased accidental fell down due to own act of omission and commission tantamount to self-inflicted injury which falls under exception (b) of Section 124-A of Railways Act. Respondent also denied that the deceased was bonafide passenger of Train No.17240 Express from Duvvada to Vijayawada and hence this case is not fit for the claim of compensation and liable to be dismissed.

4. From the pleadings, following issues were framed on 25.08.2020:

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 and*
4. *To what relief?*

5. In support of the claim, Applicant No.1 (father of the deceased) filed his affidavit as examination-in-chief as AW.1 and proved documents, which are marked and exhibited as under:-

- | | | |
|---|---|----------|
| 1) Attested copy of FIR | - | Ext.A.1. |
| 2) Attested copy of Inquest Report | - | Ext.A.2. |
| 3) Attested copy of PME Report | - | Ext.A.3. |
| 4) Original Study/Conduct certificate of deceased | - | Ext.A.4. |
| 5) Photocopy of Aadhaar Card of Applicant No.1 | - | Ext.A.5. |
| 6) Photocopy of Aadhaar Card of Applicant No.2 | - | Ext.A.6. |
| 7) Original Death Certificate of the deceased | - | Ext.A.7. |
| 8) Original Family Member Certificate | - | Ext.A.8. |

In his deposition, Applicant No.1 as AW.1 stated that with a view to attend marriage of his brother at Vijayawada, he along with his wife K. Srivani, Daughter K. Lakshmi, aged 5 years and his son K.Viswanadh (the deceased), aged 4 years went to Duvvada Railway station in the early hours of 20.02.2019 to travel in Train No.12805 Janmabhoomi Express with reservation of seats in D2 Coach Seat Nos.100 & 102 vide train journey reservation ticket bearing PNR No.6125482218 and Ticket No.Q06581951 from Duvvada to Vijayawada, but the above train left before they reached station and as such all of them have boarded Train No.17240 Visakhapatnam – Guntur Simhadri Express in 2nd class General Compartment holding above reserved train journey ticket. He deposed that when their train nearing Vijayawada Railway Station, they all came to entrance door of compartment with luggage, suddenly his son K. Viswanadh slipped and fell down accidentally from running train at Km.No.PRI/1001-1213B in the yard RRI of Vijayawada due to speed, jolts and sudden jerks of above running train, as a result the deceased sustained severe fatal injuries and died on spot in the afternoon of 20.02.2019. After seeing his son's accidental fall, he tried to stop

the train by Alarm Chain Pulling (ACP), but the train did not stop. They all 3 deboarded the train at Vijayawada Railway station and he reported the incident to Guard of the train and also to Railway officials concerned and they rushed to place of occurrence where his son K. Viswanadh was lying dead by the side of Railway Track. He further deposed that their reserved train journey ticket was collected from him by Railway police and mentioned those particulars in Panchanama. At the time of incident his deceased son was 4 years old and his date of birth was 18.10.2014. During cross examination, he denied the suggestion of counsel for Respondent that he was negligent and not taken proper care of his son.

The learned counsel for Applicants has relied upon the following decisions in support of his case –

- i. Civil Misc. Appeal (CMA) No.1069 of 2009 – Parisa Anjali & Ors. Vs Union of India, in the Hon'ble High Court of Andhra Pradesh.
- ii. Civil Misc. Appeal (CMA) No.64 of 2022 – Monika Gogoi Sonowal Vs. Union of India in the Hon'ble High Court of Telangana.

6. Respondent has not examined any witnesses from its side. As a documentary proof, Respondent filed DRM Report which is 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 Applicant(s) is/are dependant(s) of the deceased?*

8. Originally this OA was filed by the parents of the deceased, being his family members. To prove their relationship with the deceased, they filed Family Member Certificate issued by Tahsildar of Kanchikacherla Mandal. Further they have produced copies of Aadhar cards of Applicant Nos.1 & 2. There is no objection from Respondent side about inter-se relation of the Applicants and their

relationship with the deceased. Hence, issue No.1 is decided in favour of Applicants.

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

Bonafide Status:

9. As per claimants, deceased K. Viswanadh, a four years boy was residing at Visakhapatnam along with parents and with a view to attend his paternal uncle's marriage at Vijayawada, he along with his parents and sister ought to board Train No.12805 Janmabhoomi Express having reservation from Duvvada to Vijayawada in D-2 coach at Seat Nos.100 & 102, but by the time they reached Duvvada Station, the above train was already left. On enquiry, they came to know that they can board and travel on the same reservation ticket by next available train and hence they all boarded in another Train. No.17240 Visakhapatnam – Guntur Simhadri Express in 2nd class General Compartment. When the said train is nearing Vijayawada, they stood near the doorways and the deceased accidentally slipped and fell down from running train due to jerks and jolts of the train and succumbed to injuries on the spot. As per claimants, deceased was a minor son as 4 years old boy travelling with his parents who were holding journey ticket and incident happened during journey hour due to accidental fall from running train. Hence, the deceased was a bonafide passenger at the time of incident. Respondent refuted the bonafide status of the deceased at Para No.iv of its written statement stating that journey ticket was not found either with the deceased or with his parents for their journey in Train No.17240 Express from Duvvada to Vijayawada. Therefore, deceased was not a bonafide passenger at the time of incident.

10. To prove the bonafide status, Applicants have filed photocopy of two reserved train journey tickets. Reserved Train journey Ticket for Train No.12805 Express on 20.02.2019 from Duvvada to Vijayawada under PNR No.6125482218 with seats confirmed at 100 & 102 in 2S class D2 Coach issued on 11.09.2019





and another reserved ticket for return journey in Train No.12718 Express on 23.02.2019 from Vijayawada to Duvvada under PNR No.4508928016 with seats confirmed at 78 & 76 in 2S class D4 coach issued on 11.02.2019 at 11:56 hrs, both these tickets are available in case file which proves that the family of the deceased intended to go to Vijayawada on 20.02.2019 and return to Duvvada on 23.02.2019. As per the timings on the ticket, both these reserved tickets were purchased at the same time. As per claimants, owing to the reason of missing of Train No.12805 Express at Duvvada station, the deceased along with family members boarded another train No.17240 Visakhapatnam – Guntur Simhadri Express in 2nd class general compartment since they came to know on enquiry that they can board another train in General class in the same route with the available reserved ticket.

11. So far as argument advanced by the Respondent is concerned, after the incident, ticket was neither found in possession of the deceased nor have the applicants purchased the journey ticket for Train No.17240 for their journey from Duvvada to Vijayawada, hence, the deceased could not be treated as a bonafide passenger.

As could be seen from Ex.A2 Inquest report, at Column No.7 it was mentioned that –

"PNR Ticket No.6125482218 for train No.12805 Janmabhoomi Express, D2-100, 102 from Duvvada to Vijayawada confirm ticket, dated 20.02.2019, fare Rs.350/- is with Kopuri Srinivasarao who is father of the Deceased"

So that from the Inquest report, it is established that reserved train journey ticket for Train No.12805 Express was in possession of father of the deceased. During DRM statutory enquiry, as per Chief Reservation Inspector (Console), PRS, S.C.Railway, Secunderabad report as Paper No.43 above reserved journey ticket is found correct and genuine. During DRM enquiry, it was also revealed that the deceased, along with his family, has boarded train other than the one for which they have reserved the seats because the intended train was already departed

from Duvvada station. The intent of the family of the deceased is to travel from Duvvada to Vijayawada by purchasing a reserved train journey ticket and not to travel unauthorisedly or without ticket. Moreover, the Applicants bonafidely have accepted the fact of missing the train and boarding another train in their claim application itself. It is further to say that in case found travelling without proper journey ticket, Railways might have charged and collect their dues from the passengers, which is not followed. Moreover, deceased was a 4 year old minor boy so that any journey ticket was not required from him. Hence, Respondent's arguments have no substance. In the light of the evidence available in the case file and facts and circumstances of the case, we thus hold that at the time of incident, the deceased was a bonafide passenger.

Untoward Incident:

12. So far as untoward incident is concerned, as per claimants, deceased was travelling from Duvvada to Vijayawada holding a journey ticket and incident happened during the journey hour due to sudden jerks and jolts of the train, he suddenly slipped and fell down accidentally from running passenger train and died. Therefore, the death of the deceased is fully covered under the purview of Sec. 123 (c) (2) and as well as Sec. 124(A) of the Railways Act. But Respondent Railway has refuted and countered that death of the deceased is not due to accidental fall from running train and further reiterated that the deceased along with family members came and stood near the door of compartment of said running Train which tantamount to self-inflicted injuries for which Railway is not responsible for any compensation.

13. From perusal of case file it is observed that deceased, a four years old boy was travelling along with his parents and sister on 20.02.2019 by Train No.17240 Express holding a valid train journey ticket. Father of the deceased, who is co-passenger and eye witness to the incident stated that when their train is nearing Vijayawada Station they all came to door of the compartment with luggage and

suddenly his son slipped and fell down accident from running train in the yard of RRI of Vijayawada Railway station due to speed, jolts and sudden jerks of the running train. As could be seen from the DRM Statutory enquiry report, Boyilla Kondaiah, Gangaman while attending his duties on 20.02.2019 at 15:00 hours saw the dead body of the deceased boy cut into two pieces on branch line RRI Yard at Km.No.100/1-121/3, by that time father, mother and sister of the deceased reached and present at the place of incident and he informed the same to Dy.SS/Mail Line/BZA in writing and on receipt of information from Gangman, P. Srinivas, Dy.SS/BZA gave message to GRP and RPF for further action. After the incident a Security Control message was given to RPF Headquarters, Vijayawada, a copy annexed to DRM report, stating that-

'on duty ASI Sri K.V.Ramanaiah, BZA post and Sri P. Prdha Saradhi, HC-252, GRP/BZA attended the spot and caused enquiry, it came to know that the boy by name Kopuri Viswanath, age 5 years, S/o. Srinivasarao, R/o.2-77, main road, Chevitikallu, Kanchikacherla Mandalam, Krishna District was travel by Train No.17240 along with his parents and unfortunately the boy was fell down and run over, cut into two pieces. The parents of the deceased were having Railway journey ticket vide PNR No.6125482218, Ex.Duvvada to Vijayawada, dated 20.02.2019. On verifying, the body of the deceased was wearing green color shift, jeans pants. GRP/BZA registered a case in Crime No.51/2019, U/s. 174 Cr.P.C. dated 20.02.2019.'

Inquest was conducted on 21.02.2019 at Vijayawada Government Hospital near Mortuary room in the presence of the family members. As per inquest report, the injuries sustained by the deceased are cut at the waist, intestines came out and sustained severe blood injury, body was cut into two pieces from the waist to legs and towards head. The nature of injuries sustained are as such that the incident is nothing except accidental fall from running train. It is further to say that PME was conducted same day which is Ex.A-3 and doctor opined that cause of the death is due to 'Shock and Heamorrhage due to amputation of body at L4 & L5 level associated with other injuries'. Hence, injuries found during inquest and PME are corroborating to each other. It is pertinent to mention that injuries found over the body of deceased during the inquest as well as PME proves that death

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of the deceased occurred due to accidental fall from a running train and nothing found against.

14. So far as argument advanced by the Respondent is concerned, as per Respondent, death of the deceased is due to his own act of omission and commission tantamount to self-inflicted injury because he along with his parents and sister has come and stood near the door of the compartment of Train No.17240 Express. It would be pertinent to mention that Sec. 124(A) of the Railways Act states that ***"When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only of loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident"***. Although there is a proviso available with Sec.124(A) of Railway Act in which in the case of suicide or any criminal act or any self-inflicted injuries, Railway cannot be compelled for compensation, Hon'ble Supreme Court in the case of 'Union of India Vs. Prabhakarn Vijay Kumar & Others, 2008(4) MLJ page No.323', pronounced that ***liability of Railway is strict or no fault liability***. Hence, if a case comes within the proviso of Sec.124(A) of Railways Act, it is wholly irrelevant as to who is at fault or negligent. Above principle was also reiterated by the Hon'ble Supreme Court in the '***Union of India Vs. Rina Devi, 2018 (SC)***).

15. Because of Railway Compensation Law is made for the welfare as well as beneficial to the victims, hence if respondent wants to take the benefit regarding the death of the deceased as self-inflicted, negligence etc., it must be proved

with cogent evidence. This Bench is not convinced with the argument of the Respondent that a four years old boy would have intent to inflict injuries by himself or his father would have acted negligently in a manner as to cause injuries to his own four years old son. Because of criminal act requires *actus reus* with *mens rea* which is neither proved by the Respondent nor any such evidence is available in the support of Respondent. Therefore, it is proved from evidence that at the time of incident, deceased, a four years old boy was travelling with his parents as bonafide passenger during journey hour and he accidentally fell down from running train and died on the spot in the Railway premises. Hence, issue No.2 is decided in favour of the applicants and against the Respondent.

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

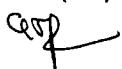
16. In the light of the findings on Issue Nos.1 & 2, the Applicants being the parents of the deceased are held entitled for the compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) from Respondent along with interest at the rate of 9% per annum from the date of incident till realization.

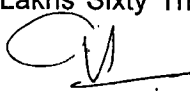
17. In the result, the case of Applicants is liable to be allowed.

ORDER

18. The 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 within 60 days from the date of submission of mandate form by the Applicants. Applicants are parents of the deceased hence ratio of compensation amount is being disbursed in the following manner –

- (i) A sum of Rs.4,00,000/- (Rupees Four Lakhs only) each is awarded to Applicant Nos.1 & 2 (parents of the deceased). Out of said amount, a sum of Rs.40,000/- (Rupees Forty Thousand only) each shall be released in their favour through Electronic Clearance System (ECS) and remaining amount Rs.3,60,000/- (Rupees Three Lakhs Sixty Thousand





only) each shall be kept in 36 fixed deposits of Rs.10,000/- each for the period of one month to 36 months, with cumulative interest. The maturity amounts of the FDR(s) be credited by ECS in the respective savings bank accounts of the Applicant Nos.1 & 2 near the place of their residence.

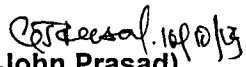
- (ii) The entire accrued interest on the compensation amount of Rs.8,00,000/- from the date of incident till the realization shall be disbursed in proportion to the awarded amount and the same may be paid through ECS to Applicant Nos.1 & 2.
- (iii) Respondent is directed to pay the total amount within 60 days from the date of receipt of requisite mandate forms from Applicants, failing which the Applicants shall be entitled to interest @ 9.5% p.a. thereafter from the date of submission of mandate form subsequent to this order, 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 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) 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.

(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.

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

20. 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


(Gyan Prakash Tewari)
Judicial Member

APPENDIX

WITNESSES EXAMINED FOR APPLICANT:

1) AW.1 - K. Srinivasarao

DOCUMENTS MARKED FOR APPLICANTS:

- 1) Ext.A-1 - Attested copy of FIR
- 2) Ext.A-2 - Attested copy of Inquest Report
- 3) Ext.A-3 - Attested copy of PME Report
- 4) Ext.A-4 - Original Study/Conduct certificate of deceased
- 5) Ext.A-5 - Photocopy of Aadhaar Card of Applicant No.1
- 6) Ext.A-6 - Photocopy of Aadhaar Card of Applicant No.2
- 7) Ext.A-7 - Original Death Certificate of the deceased
- 8) Ext.A-8 - Original Family Member Certificate

WITNESSES EXAMINED FOR RESPONDENT:

NIL

DOCUMENTS MARKED FOR RESPONDENT:

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


(G. John Prasad)
Technical Member


(Gyan Prakash Tewari)
Judicial Member