

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

CORAM:

**Ms. R. SATHYABAMA, HON'BLE MEMBER JUDICIAL
Sri G.JOHN PRASAD, HON'BLE MEMBER TECHNICAL**

Claim Application : OA II (u) 38/2021

Date of filing : 23.11.2020

Date of decision : 29.08.2024

Applicants :

1. Goravayyagari Uligappa @ Vuligappa, S/o. Siddappa,
Aged 48 Yrs, Occ: Coolie
2. Goravayyagari Lakshmi, W/o. G. Uligappa,
Aged 44 Yrs, Occ: Coolie.

All are R/o. D No.1-121, 1st Ward,
Sathanur Village, Kurnool District.
Andhra Pradesh. PIN: 517 581.

Versus

Respondent:

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

Claim for Rs.10,00,000/- (With interest)

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

JUDGEMENT

1. This claim application is filed by parents of the deceased under Section 16 of RCT Act, 1987 read with Sections 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 Goravayyagari Shiva Sharana (hereinafter referred to as "*the deceased*") who died allegedly in an untoward incident of accidental fall from the train carrying passengers that occurred on 19.01.2020.

2. As per the OA, the deceased was resident of Sathanur Village of Kosigi Mandal of Kurnool District. He was unmarried and he was coolie by profession. Two months prior to the incident, the deceased along with mother and some other family members were staying in Bangalore for coolie works. In the night hours of 18.01.2020, the deceased along with his mother went to Bangalore Railway Station to go to their native place. Then, the deceased purchased one 2nd class combined ticket meant for both of them bearing No.77525471, valued Rs. 280/-, for their journey from KSR Bangalore to Mantralayam Road and boarded in the general compartment of Tr No. 11302 KSR Bangalore – CSTM Udayan Express. The said train arrived on PF No.3 of Mantralayam Road station in the morning hours of 19.01.2020. After getting down from train, both of them were going from PF No.3 to PF No.1 by crossing the Railway tracks through exit gate. While they were crossing the tracks, the deceased was hit by Train No. 22691 Rajadhani express which was going to H.Nizamuddin from KSR Bangalore without blowing horn. As a result, he sustained severe multiple fatal injuries and other severe multiple injuries and he died on the spot at about 06:45 Hrs on 19.01.2020 within the precincts of Mantralayam Road Railway Station.

3. Respondent appeared and filed Written Statement and denied its liability and further submitted that there is no cause of action for Applicants as the claim does not fall within the ambit of Section 124-A (b) of the Railways Act, 1989. In the written statement filed by the Respondent, it has been submitted that the deceased herein was not a bonafide passenger by Udayan Express since they have completed their journey, the ticket is invalid. Moreover, the incident does not fall in the ambit of untoward incident and it was a case of trespassing. From the statement of mother of the deceased, wherein it has been categorically mentioned that after completion of their journey i.e., after getting down in

Mantralayam Road station, they were crossing the track while leaving the station, then the deceased was hit by the train, hence it is a case of hit by train while crossing the track. It is evident from Loco pilot who is direct eye witness who submitted that it is a case of hit by train. In view of the above discussion, the incident does not fall within the ambit of Untoward incident, hence this case is liable to be dismissed.

4. From the pleadings, following issues were framed on 26.07.2021.

- 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, father of the deceased filed his affidavit as AW.1 and he was cross examined by the Respondent Counsel. To prove his case, Applicants have filed the following documents which are marked as Exhibits A.1 to A.9.

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|--|---|----------|
| 1) Attested copy of Train ticket | - | Ext.A.1. |
| 2) Attested copy of FIR | - | Ext.A.2. |
| 3) Attested copy of Inquest Report | - | Ext.A.3. |
| 4) Attested copy of Post Mortem Certificate | - | Ext.A.4. |
| 5) Death certificate of the deceased | - | Ext.A.5. |
| 6) Family Member Certificate | - | Ext.A.6. |
| 7) Photocopy of Aadhaar Card of deceased | - | 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. |

In support of their case, Counsel for Applicant filed following four citations of various High Courts Viz.,

- CMA No. 321/2018
- CMA No. 1011/2016
- In the High Court of Judicature at Bombay, Nagpur Bench, First Appeal No. 419/2019.
- Judgement of this Bench in OA II (u) 291/2015.

6. Sri M.Shankar Naik, Retd. Loco Pilot/Anantapur appeared before this Tribunal and deposed as RW-1 and respondent side submitted DRM report, which is marked as Ext.R-1.

7. Heard Counsels from both sides and perused the case file. On consideration of materials available on record and the contentions of the learned Counsels appearing for both the parties, issue wise findings recorded are as under:

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. As per the claim application the deceased travelled with a valid train journey ticket bearing No. 77525471 from KSR Bengalore to Mantralayam Road by Tr No.11302 Udayan Express with valid journey ticket and after getting down in the destination station i.e., Mantralayam Road Station, while he was going out of the station by crossing the tracks from Platform No.3 to Platform No.1, the deceased was hit by Tr No. 22691 Rajdhani Express. In this case, the crux of the issue to be decided is that once the journey of a passenger is completed and he was going out of the station and for that purpose he was crossing the tracks, in the meanwhile train hit him and he died on the spot in the station premises. In these circumstances, whether he can be called as a bonafide passenger or not, similarly the incident falls under the ambit of Untoward Incident or not?

9. To begin with the discussion on the bonafide status of the deceased, basing on the arguments putforth by both sides and material evidence placed on record, at the time filing claim application, applicants have filed copy of the train journey ticket bearing No. 77525471 meant for two adults, with a validity to travel from KSR Bengaluru to Mantralayam Road on 18.01.2020. As per the FIR (Ext.A-2) and initial message issued by SMR/Mantralayam Road addressed to GRP & RPF authorities (annexed to DRM report), incident took place before

6:45 Hrs of 19.01.2020 in the yard of Mantralayam Road station. In the investigation reports filed by the Respondent and Inquest report filed by the Applicants, it has been categorically mentioned that the deceased was having ticket with above mentioned particulars. Issuance of the above ticket was confirmed by the concerned Railway authorities, Southern Railway/Chennai. Similar details of the incident can be seen from the statement of the RPF/Constable who attended the body along with GRP. In the conclusion of the inquest report, Panchayatdars have unanimously opined that the deceased died accidentally due to a hit by the train.

10. Further, Railways have adduced the evidence of Sri Shankar Naik, Loco pilot of the said train and deposed as RW-1 before this Tribunal on 22.04.2024. Relevant portion of his cross examination reads as under:

“ The train I worked was Duranto Express. Rajdhani and Duranto trains are different. When my train passing thorough Mantralayam station with continuous horn blow and at that time train was moving at 100 KMPH.

When the train was passing through, we have observed that my train hit one object, I don't know whether it was a human being or otherwise. After the hit, we did not stop the train. Immediately, I have informed the same to guard through Walky Talky, who inturn informed the same information to SM/Mantralayam Road. I don't know after the informing the same to SM/Mantralayam Road station, whether guard has recorded about the incident in his rough journal or not. Approximately after 2 or 3 months, GRP enquired me and recorded my statement in Adoni Station outpost. Except giving statement before GRP, I have not given any written message to any authority.

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Court Question:

When train was passing through Mantralayam Road station and train was moving at 100 Kmph, I could not be able to see whether somebody has come before my engine or not especially from platform side.

11. From the above deposition, it is quite clear that it was a Duranto Train, running through Mantralayam station at 100 Kmph by blowing continuous horn and moreover incident happened in the station premises. From the court question to the loco pilot, it can be observed that when the said train was moving at a speed of 100 Kmph, it is impossible to observe the objects on either side of the train moving direction, hence the Loco-pilot could not observe anything but noticed his train hit some "object". But initially he does not know whether it was a "human being" or any other object. Here it is very relevant to peruse the statement of mother of the deceased recorded by SI/RPF wherein she has stated that they were crossing the tracks from Platform No.3 to Platform No.1, on the pathway provided at the end of the platform (towards the Raichur end). When they reached Platform No.2, train coming without horn she escaped narrowly but it hit her son who was behind her. As she was the direct eye witness to the incident, after the hit he was thrown for a distance of 50 metres from pathway.

12. Furthermore, as per the statement of the SMR of the station who stated that as per the norms of the category of the station, Mantralayam station has been provided with all necessary passenger amenities including Foot Over Bridge (FoB) which can be used by the authorized passengers to move from one platform to another. Path ways available on both ends of the platform are actually meant for movement of Railway parcels/Railway materials from both sides as part of Railway functioning but not for passengers. But on these pathways, both the deceased and his mother were moving from Platform No.3 to Platform No.1 and incident happened when they reached Platform No.2. As argued by the Respondent and in all the enquiry reports, it has been mentioned



that they have completed their journey and they have not utilized the Foot Over Bridge in the station but not utilized the pathways which are not meant for passenger movement.

13. Though the deceased completed his journey and train on Platform No.3 of the station and he was going out of the station to catch a bus to his village. Technically, they would have completed their journey and nowhere it has been specifically mentioned that they spent much time in the station after completion of their journey. On perusal of the relevant papers, within minutes of their get down in the station, while getting exist but still in the premises. The only contention from respondent side is that they have not gone out by Foot Over Bridge in the station which was on the both ends of the platforms of the station. Here, it is to mention that It is a common phenomenon and normal practice in most of the stations across the country that people avoid to climb steps of FOB and get down, instead they prefer to cross the tracks because of their age, health issues, luggage etc., But in the instant case, the deceased was accompanying his mother to avoid the FOB by mother, the deceased would have preferred to cross the tracks. By stating so, we are nowhere appreciating or accepting the attitude of the person crossing the track without using Foot over Bridge. However, the respondent did not prove with the evidence that the incident comes under the proviso clauses of Section 124A. Thus, by giving respect to the norms/rules of the railways and for provision of suitable amenities in the station, it is concluded that the deceased is treated as a bonafide passenger and the incident is considered as an untoward incident which took place in the station premises in the early morning hours since the deceased was trying to exit after completion of his journey with a valid ticket.

14. This defence of contributory negligence taken by the respondent during the course of his argument is not acceptable in view of the legal position well settled by Hon'ble Supreme Court in ***Union of India v Rina Devi [2018 (3) ACJ 1441]*** and strict or no fault liability cast on Railways under Section 124A of the Railways Act, 1989.

15. Among the citations filed by the applicants only High Court of Judicature at Bombay, Nagpur Bench in Sunitha & Others Vs. Union of India, First Appeal No. 419/2019 is applicable to some extent depending upon interpretation of the decision. In the judgement, they have referred one judgement of "Punjab and Haryana High Court" in the case of "Budho Devi & Others Vs. Union of India". That was a case where a person had purchased a valid journey ticket and waiting for the train and when he saw a woman who had tried to cross the railway line and the Shatabdi Express was approaching, he tried to save her and though he saved her, he himself got hit by the train and died. The Punjab and Haryana High Court held him to be a bonafide passenger and also held that the said act would be covered within the definition of untoward incident and allowed the claim under Section 124A of the Railways Act. The same high court has further described the case as under:

"If a person at platform met with an incident which is attributed to the Railways and dies, such incident is to be treated as untoward incident. In this case, the deceased was a humble man and was working as a sweeper in Municipal Committee, Panipat. He had no relation with the said woman who was trying to cross the Railway line. The deceased was present at Platform No.3 when he thought that the life of the said woman was in danger, he acted bravely to save the life of the said woman. He was able to save safe of the said woman, but lost his own life. I can be a miscalculation on the part of the deceased as he might have thought that he will be able to save the said woman and will be able to save himself also. However, on account of the fact that the Shatabdi Express train was not to stop at Panipat Railway Station and might be at high speed, the calculation of the deceased proved to be incorrect. Therefore, the deceased Mr.Satpal laid down his life to save the life of another human being. Therefore, I am of the view that such incident is to be covered under the definition of untoward incident. Since the

deceased was waiting for the train and was having valid monthly season ticket, he is deemed to be a bonafide passenger within the meaning of explanation to Section 124A of the Railways Act, 1989".

(emphasis supplied)

16. In the above case, incident happened before the commencement of the journey whereas in the current case on hand, incident happened immediately after completion of the journey when the passengers are coming out of the station while crossing the tracks and the deceased does not have any intention to commit suicide or otherwise. Respondent have not proved the death of the deceased as suicide or any exception under the proviso to Section 124A of Railways Act.

Under given circumstances, and evidence on record and other circumstantial evidence, it would be appropriate to conclude that the deceased was a bonafide passenger and died in an untoward incident. Accordingly, this issue is also answered in favour of the applicants and against the respondent.

Issue No.2 *Whether the Applicant(s) is/are dependent(s) of the deceased?*

17. Originally this OA was filed by the parents of the deceased. Applicants' case is that their son died in an untoward incident. To prove their claim and locus to file this OA, applicants have produced family membership certificate, photo copy of Aadhar card of the applicants as well as deceased and death certificate of the deceased. Basing on the material evidence placed on record i.e., Aadhar cards of the applicants as well as deceased and Family Member Certificate (Ext.A-6) issued by concerned Tahsildar, it is certain that Applicant No.1 is father of the deceased, Applicant No.2 is mother of the deceased. As such, this issue of dependency is decided in favour of the applicants.

18. In order to claim compensation from Respondent Railway in Railway Untoward Incident cases, two necessary ingredients must be proved under

Section 123 (c) (2) of Railways Act, 1989 i.e., (i) Bona fide status of the passenger; and (ii) Untoward Incident. In the case on hand, both bona fide status of the deceased and untoward incident are answered in favour of Applicants.

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

19. In view of the findings on Issue Nos.1 & 2, Applicants being the parents of the deceased, they 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 the order.

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

ORDER

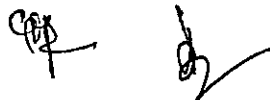
21. The Respondent is directed to pay the Applicant a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) along with interest at the rate of 9% per annum from the date of incident till the date of this order within 60 days from the date of submission of mandate form by the Applicant and the compensation amount is to be disbursed in the following apportioned 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.	Goravayyagari Uligappa @ Vuligappa	Father	48 Yrs	4,00,000/-	40,000/-	3,60,000/-
2	Goravayyagari Lakshmi	Mother	44 Yrs	4,00,000/-	40,000/-	3,60,000/-

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

Applicant Nos.1 & 2: Rs.3,60,000/- (Rupees three lakhs sixty thousand) shall be kept in Fixed Deposits of Rs.10,000/- each for the period of one month to 36 months in ascending order. The maturity amount of each FDR be credited in the respective Savings Bank accounts of Applicant Nos.1 & 2.

- (i) 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 Applicants.
- (ii) 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 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.

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

23. 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.

Certified 24/11/24
(G. JOHN PRASAD)
TECHNICAL MEMBER

R. Sathyabama
(R. SATHYABAMA)
JUDICIAL MEMBER

APPENDIX

WITNESSES EXAMINED FOR APPLICANTS:

- 1) AW.1 - G.Uligappa @ Vuligappa .

DOCUMENTS MARKED FOR APPLICANT:

- | | | |
|--|---|----------|
| 1) Attested copy of Train ticket | - | Ext.A.1. |
| 2) Attested copy of FIR | - | Ext.A.2. |
| 3) Attested copy of Inquest Report | - | Ext.A.3. |
| 4) Attested copy of Post Mortem Certificate | - | Ext.A.4. |
| 5) Death certificate of the deceased | - | Ext.A.5. |
| 6) Family Member Certificate | - | Ext.A.6. |
| 7) Photocopy of Aadhaar Card of deceased | - | 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. |

WITNESSES EXAMINED FOR RESPONDENT:

1. RW-1 - M.Shankar Naik, Retd., Loco Pilot, Anantapur.

DOCUMENTS MARKED FOR RESPONDENT:

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

Witnessed 24/8/21
(G.JOHN PRASAD)
TECHNICAL MEMBER

R. Sathyabama
(R. SATHYABAMA)
JUDICIAL MEMBER