

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

CORAM

Ms. R. Sathyabama - **Member Judicial.**
Shri G. John Prasad - **Member Technical.**

OA II (u) 43/2020

Date of filing : 03.07.2020.

Date of decision : 01.10.2024.

1. Devara Bullibabu, S/o. D. Ramunaidu,
aged about 52 years.
2. Devara Ramanamma, W/o. D. Bullibabu,
aged about 46 years.

Both are R/o Pedapudi, Buchchiyyapeta Mandal,
Seethayyapeta, Visakhapatnam,
Andhra Pradesh, PIN: 531 025.

... Applicants.

Versus

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

... Respondent.

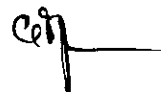
Claim for Rs.8,00,000/- (With interest)

Shri N.P. Rao	-	Ld. Counsel for Applicants.
Shri B.B. Lakshmaiah	-	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 Railways Act, 1989 seeking compensation to the tune of Rs.8,00,000/- with interest from Respondent Railway for the death of Devara Ramesh (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 17.08.2019.

2. It is pleaded in OA that the deceased completed Agriculture Diploma Course and joined at G.K. Tutorial Coaching Centre at Bapatla just 10 days prior to his accident to





secure the Village Secretariat Post. He came to his place from Bapatla on 15.08.2019 for celebration of "Rakhi Festival" with his family members. In return journey, with a view to go to Bapatla to attend his Coaching Centre, the deceased went to Anakapalle Railway station, by informing his family members, in the evening hours of 16.08.2019, purchased a second class train journey ticket bearing No.07655279 from Anakapalle to Vijayawada and reached Vijayawada by Train No.17244 (Rayagada-Guntur Express) in the early hours of 17.08.2019 and with a view to go to Bapatla, he again purchased a second class train journey ticket from Vijayawada to Bapatla in the morning hours of 17.08.2019 and boarded the Train No.12711 (Vijayawada-Chennai Pinakini Express) in second class general compartment, informed the same over cell phone to his parents about his journey by the said train holding the said train journey ticket. While travelling, as there was heavy rush of passengers in the compartment, the deceased accidentally slipped and fell down from the aforesaid running train at KM No.1/21-23 between Guntur and Tenali Railway stations due to speed, jolts and sudden jerks of the said running train. As a result, he sustained severe head injury and other multiple fatal injuries and died on the spot in the morning hours of 17.08.2019. As dependents of the deceased, the parents of Devara Ramesh filed this petition for compensation from Respondent Railways.

3. Respondent Railway appeared and filed Written Statement in which all the allegations and averments made in the claim application were denied. It is submitted that there is no cause of action for the Applicants as the claim does not fall within the ambit of Section 123 (c) or Section 124A of Railways Act, 1989. Respondent further submitted in DRM Report that the enquiries conducted established that the deceased was not a passenger within the meaning of Section 2 (29) of the Railways Act, as he was not in possession of any valid pass or ticket. The journey ticket dated 16.08.2019

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found with the deceased was from Anakapalli to Vijayawada only, whereas the incident occurred beyond Vijayawada near Angalakuduru which was between Guntur and Tenali Railway stations. The body of the deceased was noticed by on-duty Keyman initially on 17.08.2019 at KM No.1/21-23 between Guntur and Tenali Railway stations. As per the statement of Guard of alleged Train No.12711 (Pinakini Express), the said train did not pass through the spot i.e., KM No.1/21-23 between Angalakuduru and Tenali Railway stations where body was spotted. There were no jerks & jolts reported between Guntur and Tenali & Sangam Jagarlamudi and Tenali Railway stations as certified by concerned Railway authorities. There was no eye witness to the alleged incident. Hence, Railway administration is not responsible for the death of the deceased and thereby no need to pay any compensation to the Applicants.

4. From the pleadings, following issues were framed on 16.02.2021:

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) are entitled to the compensation as claimed?*
4. *To what relief?*

5. In support of the claim, Applicant No.1 (Father of the deceased) filed an affidavit in chief examination as AW.1 and he was cross-examined on 09.06.2023. The documents filed by him are marked as exhibits as under:-

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

6. Respondent examined Shri T. Vara Prasad, Mail/Express Train Manager as RW.1 and he was cross-examined on 25.01.2024. DRM Report filed by the Respondent is marked as Ext.R.1.

7. We have heard the arguments of Ld. Counsels for both the parties and gone through the material available on record. The following are our findings on the issues framed:

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. Applicants pleaded in OA that the deceased joined G.K. Tutorial Coaching Centre in Bapatla just 10 days prior to the incident. He had gone to his native place on 15.08.2019 to celebrate "Rakhi Festival" and for his return journey to Bapatla, he went to Anakapalli Railway station in the evening hours of 16.08.2019, purchased a second class train journey ticket bearing No.07655279 from Anakapalle to Vijayawada and reached Vijayawada by Train No.17244 (Rayagada-Guntur Express) in the early hours of 17.08.2019. At Vijayawada, with a view to go to Bapatla, he purchased a second class train journey ticket from Vijayawada to Bapatla in the morning hours of 17.08.2019 and boarded the Train No.12711 (Vijayawada-Chennai Pinakini Express) in second class general compartment and informed the same over cell phone to his parents. Per contra, Respondent contended its case that the deceased was not a passenger within the meaning of Section 2 (29) of Railway Act as he was not in possession of any valid pass or train journey ticket. The journey ticket dated 16.08.2019 found with the deceased was valid for the journey from Anakapalle to Vijayawada and the same is not valid for the journey beyond Vijayawada.

9. It is observed from Col.No.VII of Inquest Report that the articles such as black belt, waist-thread, wrist-twine, hand bag, towel, SBI Debit card, PAN Card, Driving License, photos and a train journey ticket bearing No.07655279 valid for the journey from Anakapalle to Vijayawada were found with the deceased during Inquest, but the train journey ticket for the second leg of journey from Vijayawada to Bapatla was selectively missing. It appears that the relevant train journey ticket alone selectively lost whereas all other articles mentioned supra were seized from the spot/dead body casts serious doubt. However, before recording our conclusion on this aspect, we would like to take up the issue regarding incident in which the deceased allegedly involved and we would explore if benefit of doubt qua lose of ticket can be extended with regard to bonafide status of the deceased, while concluding about untoward incident.

10. As regards the incident, it is the pleading of the Applicants that the deceased while travelling from Vijayawada to Bapatla by Train No.12711 (Vijayawada-Chennai Pinakini Express) on 17.08.2019, accidentally fell down from the running train at KM No.1/21-23 between Guntur and Tenali Railway stations. Whereas, the contention of the Respondent is that the Train No.12711 (Vijayawada-Chennai Pinakini Express) did not pass through the KM No.1/21-23.

11. In the instant case, the body of the deceased was first noticed by on-duty Keyman at KM No.1/21-23 between Angalakuduru and Tenali Railway stations and to this effect, he gave the written message to on-duty Station Manager, Tenali Railway station for further necessary action. Hence, it is sure that the body of the deceased was lying certainly at KM No.1/21-23 and there is no hesitation about this for both the parties. Now, it is clearly observed from the statement of Shri Talapareddy Vara Prasad, Guard of Train No.12711 (Vijayawada-Chennai Pinakini Express) on

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17.08.2019 – the train that was alleged to have been boarded by the deceased - that the said train travelled via Krishna Canal Junction (KCC), Pedavadlapudi (PVD), Duggirala (DIG) Railway stations but not via Anagalakuduru and not at all through KM No.1/21-23. If at all the averment of the Applicants that the deceased had boarded the Train No.12711 (Vijayawada-Chennai Pinakini Express) for his journey from Vijayawada to Bapatla is taken into consideration for the spirit of statute, the body of the deceased must have been lying in the route cited supra and it is not understood as to how the body of the deceased was lying at KM No.1/21-23 when the alleged train had not at all passed through the said KM and it creates serious doubt about the demeanour of the Applicants and exhorts to believe that the Applicants have not approached the Court with clean hands.

12. If we count the individual factors regarding purchase of ticket and untoward incident without correlating all the facts, the Applicants would be able to succeed on individual issues. But, if we consider all the facts and circumstances in totality, synchronization in the case is lacking and to have effective results, there must be synchronization between facts and events narrated for an incident. In fact, synchronization is the life threat for a case under given circumstances. Any distortion or odds would disturb the findings and result on appreciation of evidence on record. In this case, certainly there is no synchronization between facts and events.

13. Moreover, in the absence of cogent evidence to prove the case, the case of the Applicants has become unbelievable. The Applicants have failed to prove that the deceased was a bona fide passenger for the journey from Vijayawada to Bapatla or met with an untoward incident. Thus, the issue raised is answered against the Applicants and in favour of the Respondent.



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

14. This OA was filed by the parents of the deceased. To prove their relationship with the deceased Applicants filed Death Certificate of the deceased (Ext.A.4), photocopies of Aadhaar Card of the deceased, Applicant Nos.1 & 2 (Exts. A.5, A.6, A.7 respectively) and Family Member Certificate (Ext.A.8). There is no dispute from Respondent side about the interse relationship of the Applicants and their relation with the deceased. Hence, Issue No.2 is answered in favour of Applicants and against the Respondent.

Issue Nos. 3 & 4:

15. In the light of the findings on Issue No.1 & 2, the other issues do not survive and hence not taken up for discussion.

16. As a result, the case of Applicants is liable to be dismissed. It is, therefore,

Ordered

that the claim application filed by the Applicants is devoid of merits, hence dismissed on contest without costs.

17. 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 Claims Tribunal (Procedure) Rules, 1989.

CeT Bensal 1/11/24
(G. John Prasad)
Technical Member

R. Sathyabama
(R. Sathyabama)
Judicial Member

APPENDIX

WITNESSES EXAMINED FOR APPLICANTS:

- 1) AW.1 - Devara Bullibabu.

DOCUMENTS MARKED FOR APPLICANT:

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

WITNESSES EXAMINED FOR RESPONDENT:

- 1) RW.1 - T. Vara Prasad.

DOCUMENTS MARKED FOR RESPONDENT:

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

Reviewed 1/12/24
(G. John Prasad)
Technical Member

Reviewed 1/12/24
(R. Sathyabama)
Judicial Member