

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

CORAM

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

OA II (u) 56/2021

Date of filing : 09.11.2020.
Date of decision : 29.07.2024.

1. T. Krishna, S/o. Late T. Veerraju,
aged about 50 years, Occ: Water Tank Driver,
2. T. Kumari, W/o. T. Krishna,
aged about 46 years, Occ: Housewife,

Both are R/o.H.No.1-223, 3rd Ward,
Katavaram Village, Seethanagaram Mandal,
East Godavari District, A.P., Pin: 533 293.

... 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 Indian Railways Act, 1989 seeking compensation to the tune of Rs.8,00,000/- with interest from Respondent Railway for the death of T. Vēra Balaji (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 06.10.2019.







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2. It is pleaded in the OA that the deceased, a resident of Katavaram, Sitanagaram, East Godavari District, A.P., was working as a private water tank driver. With a view to go to Lingampally to meet his friend one Mr. Prakash to secure a better job through him at Hyderabad, the deceased by informing his parents, went to Rajahmundry Railway station in the evening of 06.10.2019, purchased a 2nd class Train Journey Ticket from Rajahmundry to Lingampally, informed about his journey to his friend one Mr. Prakash through a cell phone No.9393856129 as deceased's cell phone was switched off. The deceased boarded Train No.12737 Kakinada-Lingampally Goutami Express in 2nd class General Compartment and again informed his friend through another cell phone No.8978364189 about his journey and commenced his journey in the said train.

3. During the course of journey, as there was heavy rush of Passengers in the compartment, suddenly, the deceased slipped and fell down accidentally from the aforesaid running Train at KM.No.0/22 and 0/24 in between VNEC cabin to Bulb Cabin due to speed, jolts and sudden jerks of the said running Train and as a result, he was dragged by the train, sustained severe head injury and other multiple fatal injuries and died on the spot in the same day night hours of 06.10.2019. It is further pleaded by Applicants that the said journey ticket was lost in the incident in the night hours since the deceased sustained severe injuries and his dead body was dragged by train. Applicants are parents of the deceased. Being dependents and family members of the deceased, they filed this claim application.

4. 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) (2) or 124(A) of Railways Act, 1989. Placing reliance on the DRM statutory enquiry report, Respondent submitted that the Sri K. Srinivasa Rao, OA II (u) 56 of 2021

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Gateman, LC Gae No.I/E on 06.10.2019 at about 23:10 hours noticed a human dead body struck in the break spring of coach (2nd from rear) of Train No.12737 Gouthami Express and the head of the dead body was found at Km.No.0/22-24 in the middle of the track. On duty Trackman P.Neelambaram also noticed a dead body at 06:00 hours on 07.10.2019, a torso cut into two pieces at Km.No.0/40. Both Gateman and Trackman informed the presence of mutilated dead body to SM/Vijayawada. No railway journey ticket was found with the deceased either at the time of joint observation or during inquest. Respondent further submitted that as per version of Sri K.Chandrasekhar, co-passenger of the deceased, after making a phone call from his phone, the deceased who was in intoxicated state holding a pepsi bottle in his hand went towards doorway of compartment. After some time he heard from other co-passengers that the person who used his mobile had fallen from running train. Respondent submitted that the said fact of intoxicated condition of the deceased was evident from statements of deceased's friend K.Prakash and co-passenger K.Chandrasekhar. As per Respondent, the incident could have occurred due to own criminal act and conduct of the deceased tantamount to self-inflicted injury committed in a state of intoxication which would come under the ambit of proviso (b) and (d) of Section 124-A of Railways Act, 1989. Hence, this case is not fit for the claim of compensation and liable to be dismissed.

5. From the pleadings, following issues were framed on 01.06.2021 :

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

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6. In support of the claim, Applicant No.2 (Wife of the deceased) filed her chief examination affidavit as AW.1 and to prove their case filed the documents, which are marked as Exhibits as under:-

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|---|---|----------|
| 1) Attested copy of FIR | - | Ex.A.1. |
| 2) Attested copy of Message from SS/BZA | - | Ex.A.2. |
| 3) Attested copy of Inquest Report | - | Ex.A.3. |
| 4) Attested copy of PME Report | - | Ex.A.4. |
| 5) Death Certificate of the deceased | - | Ex.A.5. |
| 6) Family member certificate | - | Ex.A.6. |
| 7) Photocopy of Ration card | - | Ex.A.7. |
| 8) Photocopy of Aadhaar card of deceased | - | Ex.A.8. |
| 9) Photocopy of Aadhaar card of Applicant No.1 | - | Ex.A.9. |
| 10) Photocopy of Aadhaar card of Applicant No.2 | - | Ex.A.10. |

AW-1 reaffirmed the averments of claim application in her affidavit and further deposed that they came to know about the incident through a phone call from Railway police in the morning hours of 07.10.2019 at about 08:00 am., She along with her family members rushed to GGH, Vijayawada and found her son lying dead at Mortuary room. Panchanama was held in their presence. During cross examination, she denied the suggestion of counsel for Respondent that her son died due to intoxication while travelling and Railway is not responsible to pay any compensation.

7. Respondent Railway examined M. Nageswara Rao, Rtd. ASI/RPF and T.S.Chandrasekhar Reddy, Post Commandent/RPF, the IO in this case as RW-2 and also filed DRM Report as documentary evidence which is marked as Ex.R.1.

8. RW.1 deposed that on 07.10.2019 he had performed 22.00 hrs to 6.00 hrs duty. During his duty time, at about 2:30 hours a message was received from SM/VNCE through Dy. SS/BZA mentioning that Sri K. Srinivas Rao, Gateman, LC Gate No.1/ E under the control of SSE/ P.way/N/BZA reported that while exchanging all right signals to train no.12737 Gowthami express passing from VNEC Bulb cabin.



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After passing train he searched for body parts towards VNEC side and found that the head of the body lying between the track at K.M no.0/22- 0/24, OHE posts on bulb-II between VNEC bulb. On receipt of said message, he along with Sri N.T.R.C.M Babu, RPHC-420/BZA with staff attended the spot. GRP/BZA conducted inquest and the dead body was identified as Veera Balaji TelagaReddi, aged 33 years, S/o. krishna, R/o. Katavaram, Seetha Nagaram, East Godavari district - 533293. The deceased was not in possession of railway journey tickets. In this connection GRP/BZA registered a case in crime no. 329/2019, U/s.174 Cr.PC.

9. RW-2 reiterated the statements of the witnesses he examined during statutory enquiry in which his findings are based. He concluded in his affidavit that the deceased was travelling in train on door ways/foot steps, in drunken condition. During cross examination, he deposed that his investigation was done as per rules of Manner of Investigation of Untoward Incidents. In addition to parents of the deceased, he had also examined one Mr. Kadiyala Chandrasekhar on 03.03.2021, who was the co-passenger of the deceased, whose name was not mentioned in the Inquest Report. The said Kadiyala Chandrasekhar had given his statement in writing that the deceased was in drunken state. They could not collect the Coco Cola bottle, which contained alcohol and was supposedly consumed by the deceased. It was not in their competence to examine the Doctor, who has conducted PME to ascertain whether the deceased had consumed alcohol or not. During his enquiry, Ponnada Prakash, the friend of the deceased had also confirmed that the deceased was in drunken condition at the time of incident. Ponnada Prakash has given his statement in presence of witnesses, whereas Kadiyala Chandrasekhar has given his statement in his own hand writing. He denied the suggestion of counsel for



Applicants that they have falsely recorded the statements of witnesses and filed the false evidence to favour the railway administration.

10. 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 bona fide passenger of the Train in question and died as a result of an untoward incident?*

11. As per claim the deceased with an intention to meet his friend Mr.Prakash at Hyderabad to secure a better job through him at Hyderabad, the deceased by informing his parents, went to Rajahmundry Railway station in the evening of 06.10.2019, purchased a 2nd class Train Journey Ticket from Rajahmundry to Lingampally, informed about his journey to his friend Mr.Prakash by using a mobile phone of an unknown passenger with phone number 9393856129 as deceased's cell phone was switched off. The deceased boarded Train No.12737 Kakinada-Lingampally Goutami Express in 2nd class General Compartment and again informed his friend through another cell phone No.8978364189 about his journey and the train departed from the said train. During the course of journey, as there was heavy rush of Passengers in the compartment, the deceased suddenly slipped and fell down accidentally from the said running Train at KM.No.0/22 and 0/24 in between VNEC cabin to Bulb Cabin due to speed, jolts and sudden jerks of the said running Train and as a result, he was dragged by the train, sustained severe head injury and other multiple fatal injuries and died on the spot in the night hours of 06.10.2019. The purchased journey ticket was lost in the incident as it was night, the deceased

sustained severe injuries and his dead body was dragged by train. As per claim, the deceased was travelling with a valid journey ticket and incident happened during journey hour due to accidental fall from running train, the deceased was a bonafide passenger at the time of incident. Respondent denied the bonafide status of the deceased in *Para No.2* of its Written Statement and further submitted that the incident occurred due to criminal act of the deceased in a state of intoxication and his act of self-inflicting injury would disentitle the applicants from claiming compensation.

12. During his duty hours at about 23:10 hours on 06.10.2019, K. Srinivasa Rao, Gateman, LC gate No.I/E observed a human dead body on being stuck in break spring of coach, getting dragged by Train No.12737 Gowthami Express. He checked the track towards Visakhapatnam direction and found the head of male body at Km.No.0/22-24 in the middle of the track. He informed the same matter to SM/Vijayawada, North cabin. The dead body of the deceased was first found by Pagulu Neelambaram, Trackman during his duty hours at 06:00 hrs on 07.10.2019, which was cut into two pieces at torso level and he informed the same to SM/Vijayawada, North cabin who in turn flashed a message to GRP and RPF, Vijayawada. From the message of SS/Vijayawada and DRM enquiry report it is clear that the dead body of the deceased which got stuck in the break spring of compartment was seen by Railway Gateman while it is getting dragged by Gowthami Express.

13. It is an admitted fact that no journey ticket was recovered from the dead body of the deceased during inquest. There was no eye witness to the incident. Though one of the co-passenger Chandrasekhar Reddy was examined during DRM enquiry, he did not witness the alleged fall of the deceased from the running train. On



perusal of DRM statutory enquiry report, it is evident that K.Srinivasa Rao, Gateman of LC gate No.I/E during his duty hours found one human dead body struck in break spring of coach (2nd from rear) of Train No.12737 Gouthami Express. He checked the track and found a head of a male person's dead body at Km.No.0/22-24 in the middle of the track. In DRM enquiry also it was expressly admitted by Respondent that deceased was travelling in Train No.12737 Gowthami Express at door way of compartment without taking proper care. So, admittedly there is no dispute as to journey of the deceased in the said train. The prime contention of the Respondent is that the deceased was consuming alcohol during journey and in a state of intoxication, he dangerously travelled at door way which had caused the incident.

14. The purport of the evidence of RW-1 and RW-2, the RPF personnel is that the deceased was not in possession of Train journey ticket during inquest and one of the co-passenger of the deceased had stated that the deceased was in intoxication state and the incident was happened due to act of the deceased in a state of intoxication. During his cross examination, RW-2, the Investigation Officer in this case had stated that –

"Kadiyala Chandrasekhar has given his statement in writing to us that the deceased was in drunken state. I cannot say whether he has given any written complaint to any of the railway authorities in writing on the date of journey. We could not collect the Coco Cola bottle, which contained alcohol and was supposedly consumed by the deceased. It is not in our purview to examine the doctor, who has conducted PME to ascertain whether the deceased had consumed alcohol or not. As per the GRP, the deceased had fallen down from the running train. GRP has not written the intoxicated condition of the deceased. I have enquired with the parents of the deceased about habit of consuming alcohol for which they have accepted orally but they have not given it in writing. During the course of enquiry with Ponnada Prakash, we came to know that Kadiyala






Chandrasekhar is the co-passenger of the deceased, who also confirmed that the deceased was in drunken condition at the time of incident. Ponnada Prakash has given his statement in presence of witnesses, whereas Kadiyala Chandrasekhar has given his statement in his own hand writing."

15. On perusal, we found that the Kadiyala Chandrasekhar is the passenger of train in which the deceased travelled and from his phone, the deceased called his friend Prakash to inform about his journey. As per Kadiyala Chandrasekhar's statement, the deceased was consuming alcohol during journey and the deceased was holding a pepsi bottle. But it was admitted by RW-2 that except the statement of the said co-passenger, no other material evidence is available to substantiate the fact that the deceased was indeed consuming alcohol and under the influence of alcohol, he stood near doorway and fell down from running train. Further, PME report is available with case file as Ex.A4, in which nothing is mentioned about presence of alcoholic substances or specific smell related to alcohol. Hence, respondent have failed to prove their prime contention that the deceased was in an inebriated state.

16. It was already proved that the deceased was travelling in the said train. As mentioned in DRM report, the dead body of the deceased was dragged, his clothes were badly torn and it could be possible that the journey ticket of the deceased was lost in all probability. It is pertinent to mention that in the case of **Union of India Vs. Rina Devi**, Hon'ble Supreme Court held that, *on the burden of proof, which emphasized that any person found dead or injured on railway premises is presumed to be a bonafide passenger unless the railway administration proves otherwise.*

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Respondent has not produced any cogent evidence to disprove the bonafide status of the deceased.

17. The Apex Court decision in ***Union of India Vs Rina Devi*** decided on 9th May, 2018 (SC), para No.17.4 states that,

'We thus hold that mere presence of the body on the Railway premises will not be conclusive to hold that injured or deceased was a bonafide passenger for which claim for compensation could be maintained. However, mere absence of the ticket with such injured or deceased will not negate the claim that he was a bonafide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden then will be shifted on Railway and issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.'

18. It is pertinent to mention here that as per Sec. 123(c) (2) of the Railways Act, 1989, the accidental falling of any passenger from a train carrying passengers, reads as under:

Section 123 of Railways Act, 1989

123. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) "accident" means an accident of the nature described in section 124;

(c) "untoward incident" means—

(1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.

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19. As per Section 124-A of Railways Act, 1989 reads as under:

Sec. 124A. Compensation on account of untoward incident.—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 for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident: Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;

(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident. Explanation.

For the purposes of this section, “passenger” includes—

(i) a railway servant on duty; and

(ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.

20. Basing on the touchstone of judgments pronounced by Hon'ble Supreme Court, if a case comes within the purview of Section 124-A, it is wholly irrelevant as to who was at fault. It is further to say that Railway Compensation Law is a welfare legislation made for the welfare as well as for the benefit of the victims/deceased. If the Respondent wants to avail the benefit of exceptions given under Sec.124-A of Railways Act, it should be proved with cogent evidence. Hence, the argument of Respondent has no force.

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21. Therefore, in the facts and circumstance of the case and evidence available with case file proves that at the time of incident, deceased was travelling as a bonafide passenger and during journey hour he accidentally fell down from running train and died on the spot in the Railway premises which comes under the purview of an 'untoward incident' as defined U/Sec.123(c)(2) of Railways Act. Hence, issue No.1 is decided in favour of the applicants and against the Respondent.

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

22. Originally this OA was filed by the parents of the deceased. To prove their relationship with the deceased, Applicants filed Family Member Certificates (Ex.A-6) issued by Tahsildar of Seethanagaram Mandal and also filed photocopies of Ration card (Ex.A-7) and Aadhar cards of the deceased and Applicants Nos.1 & 2 (Ex.A-8, Ex.A-9 and Ex.A-10). There is no objection from Respondent side about inter-se relation of the Applicants and their relationship with the deceased. Further, the Respondent has not seriously disputed the issue and the Applicants being the parents of the deceased held to be the dependents of the deceased as per Provision of Sec.123(b) of the Railways Act, 1989. Hence, issue No.2 is decided in favour of Applicants.

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

23. In the light of the findings on Issue Nos.1 & 2, the Applicants being the wife and children 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 the date of this order.

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

OA II (u) 56 of 2021

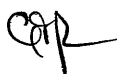




ORDER

25. 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 to date of this order, 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 date of this order 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





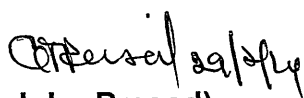
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and their specimen signatures, bank pass book with endorsement that no cheque book/debit card is issued to the account holder.

- (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.

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

27. 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



APPENDIX**WITNESSES EXAMINED FOR APPLICANT:**

- 1) AW.1 - T. Kumari

DOCUMENTS MARKED FOR APPLICANTS:

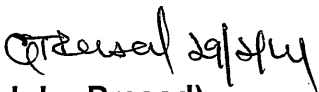
- 1) Ex.A-1 - Attested copy of FIR
- 2) Ex.A-2 - Attested copy of Message from SS/BZA
- 3) Ex.A-3 - Attested copy of Inquest Report
- 4) Ex.A-4 - Attested copy of PME Report
- 5) Ex.A-5 - Death Certificate of the deceased
- 6) Ex.A-6 - Family member certificate
- 7) Ex.A-7 - Photocopy of Ration card
- 8) Ex.A-8 - Photocopy of Aadhaar card of deceased
- 9) Ex.A-9 - Photocopy of Aadhaar card of Applicant No.1
- 10) Ex.A-10 - Photocopy of Aadhaar card of Applicant No.2

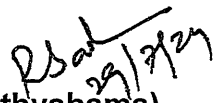
WITNESSES EXAMINED FOR RESPONDENT:

- 1) RW-1 - Mogili Nageswara Rao, ASI/RPF
- 2) RW-2 - T. S. Chandrasekhar Reddy, Post Commander, RPF

DOCUMENTS MARKED FOR RESPONDENT:

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


(G. John Prasad)
Technical Member


(R. Sathyabama)
Judicial Member

