

RAILWAY CLAIMS TRIBUNAL,
AMARAVATHI BENCH AT GUNTUR

CORAM

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

OA II (u) 71/2021

Date of filing : 03.12.2020.
Date of decision : 06.01.2025.

1. Kalam Chandana, W/o. Late Siva Naga Malleswara Rao,
aged about 27 years
2. Kalam Jaswitha, D/o. Late Siva Naga Malleswara Rao,
aged about 6 years, Minor
3. Kalam Chidvilas, S/o. Late Siva Naga Malleswara Rao,
aged about 2 years, Minor

(Applicant Nos.2 & 3 being minors represented by
their mother, natural guardian and Applicant No.1)

4. Kalam Raju, S/o. Kalam Ananda Rao,
aged about 52 years

All are R/o.D.No.1-46, Chintalapalem,
Thumuluru Village, Kollipara Mandalam,
Guntur District.

... Applicants

Versus

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

... Respondent.

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

Sri K.V.N.Rao - Ld. Counsel for Applicants.
Sri K. P. Ramudu - 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

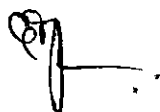




compensation to the tune of Rs.8,00,000/- with interest from Respondent Railway for the death of Kalam Siva Naga Malleswara Rao (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 14.04.2017.

2. It is pleaded in the OA that on 14.04.2017 the deceased went to Malkajgiri Railway station and purchased train journey ticket to Tenali at about 20:55 hours and boarded Train No.57620 Kacheguda-Repalle passenger. After boarding the train, the deceased stood near doorways due to heavy rush of passengers. When the train started with jerks, the deceased accidentally slipped and fell down from train in between Malkajgiri and Moulali Railway stations at Km.No.019/020 Poles. As a result, the deceased sustained multiple severe injuries and died on spot. The dead body of the deceased was noticed by Guard of the train No.57620 and informed to Dy.SS. Applicants are wife, children and father of the deceased. Being family members and dependents of the deceased, Applicants filed this application to claim compensation towards death of the deceased.

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) (2) or 124(A) of Railways Act, 1989. Relying on DRM statutory enquiry report, the Respondent submitted that the deceased was a trespasser who wanted to enter into the alleged train No.57620 running at 15 Kmph speed in mid-section but fell down and died due to run-over. As per Respondent, alleged incident was caused by own conduct of the deceased and such act disentitle the applicants from claiming any compensation for such self-inflicted injuries. The act of the deceased falls under exception '(b).Self-inflicted injury' of proviso given under



section 124-A of Railways Act. Hence, the Respondent prayed the Hon'ble Tribunal to dismiss the application with costs in the interest of the justice.

4. From the pleadings, following issues were framed on 27.07.2021:

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?*
4. *To what relief?*

5. In support of the claim, Applicant No.1 (wife of the deceased) filed her Chief Examination affidavit as AW.1 and to prove her case, filed the following documents which are marked and exhibited as under:-

- | | | |
|--|---|----------|
| 1) Attested copy of FIR | - | Ex.A.1 |
| 2) Attested copy of SS Message | - | Ex.A.2. |
| 3) Attested copy of Inquest Report | - | Ex.A.3. |
| 4) Attested copy of PME Report | - | Ex.A.4. |
| 5) Train Journey Ticket | - | Ex.A.5. |
| 6) Final Report | - | Ex.A.6. |
| 7) Death Certificate of the Deceased | - | Ex.A.7. |
| 8) Photocopy of Aadhar Card of Applicant No.1 | - | Ex.A.8. |
| 9) Photocopy of Aadhar Card of Applicant No.2 | - | Ex.A.9. |
| 10) Photocopy of Aadhar Card of Applicant No.3 | - | Ex.A.10. |
| 11) Photocopy of Aadhar Card of Applicant No.4 | - | Ex.A.11. |
| 12) Family Members Certificate | - | Ex.A.12. |

6. Respondent No.1 Railway examined P. Sanjeev, CSR/NRT, Guntur Division, previously worked as Senior a Passenger Guard as RW.1 and also filed DRM Report as documentary evidence which is marked as Ex.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. Counsel 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 is filed by wife, children and father of the deceased. To prove their relationship with the deceased, Applicants have filed Family Member

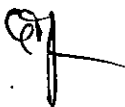
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Certificate dated 26.07.2024 (Ex.A12) issued by Tahsildar of Kollipara Mandal. They also produced copy of Aadhaar cards of the Applicant Nos.1 to 4 (Ex.A.8 to Ex.A.11). There is no objection from the Respondent side about inter-se relation of the Applicants and their relationship with the deceased. Therefore, Applicants are held to be the dependents of the deceased. Hence, issue No.1 is decided in favour of Applicants.

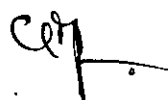
Issue No.2: *Whether the deceased was a bona fide passenger of the Train in question and died as a result of an untoward incident?*

9. The case of the applicants is that the deceased was working as Software Engineer in Young India Technologies, Secunderabad. In order to join his family at Chintapalem Village, the deceased went to Malkajgiri Railway station in the night hours of 14.04.2017, purchased a journey ticket bearing no.36716517 from Malkajgiri to Tenali at a cost of Rs.60/- and boarded Train No.57620 Kachiguda-Repalle Passenger. Due to rush of passengers, the deceased stood at door ways. During journey, due to jerks of the train, the deceased slipped and fell down from running train at Km.No.0/19 - 0/20 in between Malkajgiri and Moula-Ali stations and died on spot. As per claimants, the deceased was a bonafide passenger and his death would come under the purview of 'untoward incident'. Per contra, Respondent No.1 vehemently denied the plea of the Applicants stating that the incident was happened due to conduct of the deceased who tried to board a running train. The act of the deceased would come under purview of exception (b).Self-inflicted injuries of proviso to Sec.124-A of Railways Act and his death does not fall within the ambit of untoward incident under the applicable provisions.



10. The Applicant No.1 in her affidavit as AW.1 has reiterated the said facts and to prove the bonafide, incident and dependency, has filed the documents which are marked as Ex.A1 to A12. She further submits that, the deceased informed her about his journey to home through a phone call. On the next day morning, they received a phone call from the deceased's office informing them that the deceased fell from train and died. Immediately her father-in-law along with relatives rushed to the place of incident. During cross examination, she deposed that as she was pregnant at the time of incident, she did not attend the inquest. As per her knowledge Sri Kalam Raju, her father-in-law, Kottavarapu Chowdary and Bolu Manikyam attended the inquest. She was enquired by RPF personnel and admitted the contents of her statement recorded during enquiry:

11. Ex.A1 is the copy of FIR No.222/2017 dated 15.04.2017, which was registered on the basis of information received from Sri G. Sai Kumar, Dy.Station Superintendent, Secunderabad Railway station at 00:15 hours of 15.04.2017. According to the FIR, it was informed by Guard of Train No.57620 that while the train was passing at Km.No.0/19-0/20, Malkajgiri-Moulali Gate cabin, a man trespasser aged about 25 years suddenly entered into the train and fall down run over killed. It was also informed that co-passengers made an ACP from coach No.SC GS 97523 second from engine. Ex.A2 is the attested copy of message from Station Manager, Secunderabad to SI/GRP, Secunderabad conveying the message of the Guard of the train as mentioned above. Ex.A3 is the inquest report, conducted on 15.04.2017 between 06:30 hours to 08:30 hours at place of incident. As per Column No. 4 of Inquest Report, the deceased was last seen alive by Dara Suman on 14.04.2019 at 08:00 PM when the deceased was leaving office. Column No.7 makes reference of



recovery of white colour Lenovo Smart Phone in broken condition and a general ticket bearing No.36716517 from Malkajgiri to Tenali issued at 08:55 PM on 14.04.2017. As per Column No.15, it was opined by Panchayatdars that the deceased while travelling by Train No.57620, accidentally slipped and fell from the train, sustained severe injuries and died. As per Column No.20, there were drag marks on the dead body as it was dragged for about one Kilometer. Ex.A4 is the Postmortem report in which it was opined by doctor that the cause of death of the deceased is 'due to Traumatic Crush injury of Abdomen'.

12. The Respondent No.1 caused enquiry into the incident and filed the Divisional Railway Manager's report as Ex.R1. It was concluded in the report that as per version of Guard and Loco Pilot of Train No.57620 Passenger on 14.04.2017, it is proved that the deceased had tried to enter into the train while it was running at 15 Kmph speed in mid-section, fell down and died.

13. Shri P. Sanjeev, who earlier worked as a Senior Passenger Guard has been examined as RW.1. In his affidavit, RW-1 stated that on 14.04.2017, he worked for Train No.57620 (Kachiguda – Repalle) from Kachiguda to Guntur. While the train was passing at Km.0/19 – 0/20 in between Malkajgiri and Moula-Ali stations, a man tried to enter into the train but eventually run-over and killed as informed by passenger at 22:05 Hours of 14.04.2017. One of the passenger pulled chain to stop the train. To avoid detention, he informed about the incident to Cherlapalli station. During cross examination, he further deposed that he attended the place of incident and he was informed by one of the passenger that deceased tried to boarding the running train. He had observed that at that time, there was a heavy rush of passengers in the general compartment.

14. To prove the bonafide status, Applicants have filed original train journey ticket bearing No.36716517 from Malkajgiri to Tenali for one Adult issued on 14.04.2017 at 20:55 hours at a cost of Rs.60/-. The journey ticket was marked as Ex.A5. The veracity of the journey was checked during DRM enquiry and it was found to be genuine. As per Inquest report, the said journey ticket was recovered from the possession of the deceased. Admittedly, there is no eye witness to the incident. As per the testimony of the Guard of the train, after the incident, he went to place of incident where one of the passengers informed him that the deceased tried to board the moving train, fell down and died.

15. As per AW-1, the deceased was working at Secunderabad but their family was residing at Chintalapalem village. The deceased used to visit family every week. On 14.04.2017, she received a phone call from the deceased that he would be coming home. There are contradictions and incongruities found in the version of Applications and it is in consistence with the recitals inquest report and findings of DRM enquiry report. There is absolutely no dispute from Respondent with regard to genuineness of the journey ticket recovered and bonafide status of the deceased.

16. The prime contention of the Respondent is that the deceased tried to board a moving train which is at 15 Kmph speed and it would tantamount to self-inflicted injury which comes under the purview of exception (b) listed in the proviso of Sec.124-A of Railways Act. But, no cogent evidence was brought before the Tribunal to prove that the deceased had an intent to inflict injuries and RW-1 is not a eye witness to the incident. Moreover, RW-1 has admitted that the general compartment of the train was heavily crowded with passengers. Even if it is assumed that the deceased attempted to board a moving train, such an act may be considered negligent but does not amount to a criminal negligence under the



exceptions listed under Section 124-A of the Railways Act. All formal evidences available with case file, such as train journey ticket, FIR, Inquest, PME and Death certificate of the deceased proves that the deceased died during the course of journey.

17. 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.

18. 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—

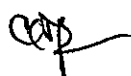
(i) a railway servant on duty; and

(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.

19. At the cost of repetition, it must be said that even if the deceased acted negligently, the same is of no consequence in view of the settled principle of law by the Hon'ble Supreme Court in *Union of India Vs. Prabhakaran Vijaya Kumar and Others* {(2008) 4 MLJ 323 (SC)} and *Jameela & Others Vs. Union of India* (AIR 2010 SC 3705) wherein it has been held that liability of the Railways is strict and it is irrelevant who was at fault.

20. It is proved that the deceased was a bonafide passenger and when the dead body or injured was found in the Railway precincts, onus lies on the Respondent Railway to prove that the incident was not an untoward incident. There is no evidence on the part of Railways to prove that the death of the deceased was not occurred due to injuries sustained in an untoward incident. Moreover, the Railways has not established that death of the deceased falls under any of the exceptions of *proviso* to Section 124-A of the Act.

21. Therefore, 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.2 is decided in favour of the applicants and against the Respondent.



ISSUE No.3 & 4: *Whether the Applicant(s) is/are entitled to the compensation as claimed? and To what relief?*

22. In the light of the findings on Issue Nos.1 & 2, the Applicants, being the wife, children and father of the deceased, are held entitled for the compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) from the Respondent along with interest at the rate of 9% per annum from the date of incident till the date of this order *with a condition that no interest is payable for the period beyond date of limitation up to the date of registration of OA.*

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

ORDER

Claim is **allowed** without costs.

24. 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 till the date of this order within 60 days from the date of submission of mandate form by the Applicants with a condition that no interest is payable for the period beyond date of limitation up to the date of registration of OA as per Order dated 09.04.2021 in MA.No.11/2021. Applicants are wife, children (minor daughter and minor son) and father of the deceased hence ratio of compensation amount is being disbursed in the following manner –

- (i) A sum of Rs.5,00,000/- (Rupees Five Lakhs only) is awarded to Applicant No.1 (wife of the deceased). Out of said amount, an amount of Rs.50,000/- (Rupees Fifty Thousand only) shall be released in her favour through ECS and remaining amount Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand only) shall be kept in 45 fixed deposits of Rs.10,000/- each for the period of one month to 45 months, with cumulative interest. The maturity amounts of

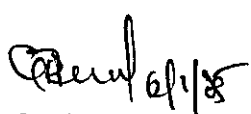
- the FDR(s) be credited through ECS in the savings bank account of the Applicant No.1 near the place of her residence.
- (ii) A sum of Rs.1,00,000/- (Rupees One Lakh only) each is awarded to Applicant Nos.2 & 3 (minor daughter and minor son of the deceased) which shall be kept in fixed deposit till the attainment of their majority with liberty to Applicant No.1 to withdraw quarterly interest of FDs for maintenance of Applicant Nos.2 & 3. On attainment of majority of Applicant Nos.2 & 3, bank shall deposit the matured amount along with interest directly into the respective bank accounts of Applicant Nos.2 & 3 without approaching the Tribunal.
- (iii) A sum of Rs.1,00,000/- (Rupees One Lakh only) is awarded to Applicant Nos.4 (Father of the deceased). Out of said amount, a sum of Rs.10,000/- (Rupees Ten Thousand only) shall be released in her favour through ECS and remaining amount of Rs.90,000/- (Rupees Ninety Thousand only) shall be kept in 18 fixed deposits of Rs.5,000/- each for the period of one month to 18 months, with cumulative interest. The maturity amounts of the FDR(s) be credited by ECS in the savings bank account of Applicant No.4 near the place of his residence.
- (iv) The entire accrued interest on the compensation amount of Rs.8,00,000/- from the date of incident till the date of this order with a condition specified above at Para No.24 shall be disbursed in proportion to the awarded amount and the same may be paid through ECS to Applicants.
- (v) Respondent is directed to pay the total amount within 60 days from the date of submission of mandate form by the 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.
- (vi) 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).
- (vii) The applicant(s) shall furnish details and documents relating to Aadhar Card, PAN Card, any other appropriate ID card, two sets of photographs

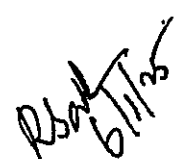
and their specimen signatures, bank pass book with endorsement that no cheque book/debit card is issued to the account holder.

- (viii) 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.
- (ix) 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.
- (x) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
- (xi) 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.
- (xii) Bank shall not create any charge, mortgage, or hypothecation on said amount.
- (xiii) 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.

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

26. 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 - K. Chandana

DOCUMENTS MARKED FOR APPLICANTS:

- 1) Ex.A-1 - Attested copy of FIR
- 2) Ex.A-2 - Attested copy of SS Message
- 3) Ex.A-3 - Attested copy of Inquest Report
- 4) Ex.A-4 - Attested copy of PME Report
- 5) Ex.A-5 - Train Journey Ticket
- 6) Ex.A-6 - Final Report
- 7) Ex.A-7 - Death Certificate of the Deceased
- 8) Ex.A-8 - Photocopy of Aadhar Card of Applicant No.1
- 9) Ex.A-9 - Photocopy of Aadhar Card of Applicant No.2
- 10) Ex.A-10 - Photocopy of Aadhar Card of Applicant No.3
- 11) Ex.A-11 - Photocopy of Aadhar Card of Applicant No.4
- 12) Ex.A-12 - Family Members Certificate

WITNESSES EXAMINED FOR RESPONDENT:

- 1) RW.1 - P. Sanjeev, CSR/NRT, Guntur Division

DOCUMENTS MARKED FOR RESPONDENT:

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

G. John Prasad
(G. John Prasad)
Technical Member

R. Sathyabama
(R. Sathyabama)
Judicial Member