

**RAILWAY CLAIMS TRIBUNAL, AMARAVATI BENCH
AT GUNTUR**

**QUORUM: HON'BLE SHRI GYAN PRAKASH TEWARI, MEMBER (JUDICIAL)
HON'BLE SHRI G. JOHN PRASAD, MEMBER (TECHNICAL)**

OAI (U) No.723/2020

Date of Filing : 11.09.2020
Date of Decision : 30.10.2023

- 1) Mala Lakshmi W/o. Late M. Ramakrishna,
Aged about 23 years, Occ: Coolie
- 2) Mala Deepthi Kala D/o. Late M. Ramakrishna
Aged about 03 years
- 3) Mala Ramani D/o. Late M. Ramakrishna,
Age about 01 year

All are R/o. H.No.6-5, Godekal, Ananthapuram,
Andhra Pradesh, PIN: 515 842

Applicant Nos.2 & 3 being minors rep. by
their mother and natural guardian, applicant No.1.

...Applicants.

Versus

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

...Respondent.

Appearance:

For the Applicants : Sri N.Panduranga Rao, Ld. Counsel.
For the Respondent : Smt M.Adilakshmi, Ld. Counsel.

J U D G M E N T

1. This claim application is filed by the applicants, under Section 16 of Railway Claims Tribunal Act, 1987 read with Section 124A and 125 of Indian Railways Act, 1989 claiming compensation of Rs.8,00,000/- (Rupees: Eight Lakhs only) with interest from the date of accident till the date of realization from respondent railway for the death of Mala Ramakrishna (hereinafter referred to as 'the deceased') in an alleged untoward incident that occurred on 06.08.2019. Applicants are wife and children of the deceased.

2. It is pleaded in the OA that, the deceased was a resident of Gudakal Village, Vidapanakal Mandal, Ananthapur District and was doing contract coolie works near Necklace Road, Hyderabad prior to six months of his incident. His wife Smt. M. Lakshmi was admitted in Govt. General Hospital, Ananthapur on 05.08.2019 for delivery and as such with a view to go to Ananthapur to his wife, the deceased took permission from his contractor and went to Kacheguda Railway Station along with his friend and fellow coolie one Mr. D. Munikrishna, purchased a 2nd class train journey ticket bearing No. UPE 15942089 from Kacheguda to Gooty Jn. at 22.30 hrs., for Rs. 115/- and boarded Train No. 19301 Dr. Ambedkar Nagar Indore - Yeshvantpur Express in a 2nd class general compartment, informed the same over cell phone to his wife about his journey by the said train holding the said train journey ticket and left in the presence of his friend. After departure of the said train, his friend and fellow coolie D. Munikrishna returned from the said railway station. While travelling, as there was heavy rush of passengers in the compartment, suddenly, the deceased M. Ramakrishna slipped and fell down accidentally from the said running train at KM No. 7/40-41 in between Kacheguda - Malakpet Railway Stations due to speed, jolts and sudden jerks of the said running train and in the result, he was dragged by the train, sustained severe head injury and other multiple severe injuries and died on the spot, on the same day night hours of 05.08.2019. The said accident information was not brought to the notice wife of the deceased and she was eagerly expected his arrival and she was blessed with a female child on 08.08.2019.

3. The Respondent Railway filed a written statement disputing the claim and denying their liability to pay compensation. It further submitted that there is no cause of action for applicants as the claim does not fall within the ambit of Section 123(c) and Section 124-A of Railways Act, 1989. It also submitted that there is no eye witness to prove that the deceased had actually travelled by Train No. 19301

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Express of 05.08.2019 and fell down from the coach. Respondent submitted that the statements of friend of deceased and brother of deceased are contradictory to each other. Respondent prayed the Hon'ble Tribunal to dismiss the case citing that it is not a case of untoward incident of accidental fall from train.

4. Upon pleadings of the parties, the following issues were framed on 07.05.2021.

- 1) Whether the applicants are dependents of the deceased?
- 2) Whether the deceased was a bonafide passenger of train in question and died as a result of an untoward incident?
- 3) Whether the applicants are entitled to the compensation as claimed?
- 4) To what relief?

5. In support of claim Applicant No.1 was examined as AW.1 and proved the documents, which are marked as Ext.A1 to A12. Sri D.Munikrishna, friend of deceased was examined as AW.2

- 1) Ext.A.1 - Original journey ticket
- 2) Ext.A.2 - Attested copy of FIR
- 3) Ext.A.3 - Attested copy of Inquest Report
- 4) Ext.A.4 - Attested copy of PMF
- 5) Ext.A.5 - Death Certificate of M. Rama krishna
- 6) Ext.A.6 - Family Member Certificate
- 7) Ext.A.7 - Photo copy of Ration Card
- 8) Ext.A.8 - Aadhar card copy of deceased
- 9) Ext.A.9 - Aadhar card copy of Applicant No.1
- 10) Ext.A.10 - Aadhar card copy of Applicant No.2
- 11) Ext.A.11 - Aadhar card copy of Applicant No.3
- 12) Ext.A.12 - Aadhar card copy of D. Muni Kumar

Applicant No.1 as AW.1, reiterating the averments made in claim application through evidence adduced in his affidavit, deposed that she was not an eyewitness to the incident of her husband. Her husband was a contract coolie and was works near Necklace Road, Hyderabad for nearly six months prior to his incident. They are residing in Karetikonda village, Gooty Mandal of Anantapur District. At the time of death of her husband, she was pregnant and was admitted to Govt. General Hospital, Anantapur for her second delivery. Mr. Munikrishna was a friend of her

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husband and both of them are used to go for coolie works. On the date of accident, her husband took permission for his contractor and went to Kacheguda Railway Station along with his friend D.Muni Krishna in the night hours and before starting from Kacheguda he informed her over mobile phone that he was coming to Anantapur by Yeswantpur Express from Kacheguda to see her. On the next day morning, her in-laws and relatives came to know from Railway Police that her husband died due to accidental fall from running train between Kacheguda and Malakpet Railway Stations. Later, her in-laws informed her that her husband died when he was travelling from Kacheguda to Anantapur via Gooty. Her in-laws attended the inquest and at the time of inquest, they were handed over the belongings of her husband i.e., Aadhar Card, Purse and Journey ticket. She denied the suggestion that Mr.Muni Krishna did not accompany her husband to Kacheguda Railway Station.

The friend of the deceased Shri D. Muni Krishna, S/o. D. Muni Das was examined as AW.2. He deposed that, prior to the incident he worked along with the deceased at Necklace Road, Hyderabad as a fellow coolie. The deceased was called up to his in-laws house Karitikonda near Gooty to bring clothes and some other items for his wife as she was admitted to Government Hospital, Anantapur for delivery. The deceased took permission from their contractor and requested him to drop him at Kacheguda Railway Station to go to Gooty. Accordingly, he took the deceased on his two wheeler and dropped him at Kacheguda Railway Station in the night hours of 05.08.2019 at about 10.00 p.m. There the deceased purchased a 2nd class train journey ticket from Kacheguda to Gooty Jn. and boarded Train No. 19301 Dr. Ambedkar Nagar Indore - Yeshwantpur Express in a 2nd class general compartment and left in his presence. After departure of the said train he returned home from the railway station. On 07.08.2019 morning, he came to know from the younger brother of the deceased that deceased slipped and fell down accidentally



from a running train between Kacheguda and Malakpet Railway Stations and succumbed to his injuries in the night hours of 05.08.2019.

6. Respondent has not examined any witness but submitted Statutory Enquiry Report (DRM Report), which is marked as Ext.R.1.

7. Counsel for applicants has filed case laws i.e.,

- (1) Hon'ble High Court for the State of Telangana at Hyderabad in Civil Miscellaneous Appeal No. 218 of 2018.
- (2) Hon'ble High Court for the State of Telangana at Hyderabad in Civil Miscellaneous Appeal No. 729 of 2007.
- (3) Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad in Civil Miscellaneous Appeal No. 1477 of 2002.
- (4) Judgement pronounced by Hon'ble Smt. Justice G. Anupama Chakravarthy in Civil Miscellaneous Appeal No. 862 of 2017.
- (5) Judgement pronounced by Hon'ble Sri Justice Ashutosh Mohunta in Civil Miscellaneous Appeal No. 785 of 2008.

8. Heard arguments advanced by both sides and perused the case file. On consideration of material available on record and the contentions of the learned Counsel appearing for both the parties, the findings on the issues are recorded as follows:

FINDINGS

For the convenience in adjudicating the case, issue No.2 is taken-up first.

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 and untoward incident

9. As per claimants, the deceased was travelling on 05.08.2019 by Train No. 19301 Dr. Ambedkar Nagar Indore – Yeshwantpur Express from Kacheguda to Gooty Jn. with a valid train journey ticket bearing No.UPE 15942089. Hence, he was a bonafide passenger. Though the Respondent has contended in the Written Statement that the deceased was not a bonafide passenger of Train No. 19301

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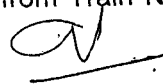
Express of 05.08.2019, in its statutory enquiry report it did not dispute the bonafide status of the deceased.

10. From perusal of case file, it is found that original journey ticket bearing No. UPE 15942089 from Kacheguda to Gooty Jn. as Ext.A1 is annexed with claim application by the Applicants. The same details of the train journey ticket are also found at Col. No.7 of Inquest Report having been recorded during Inquest. The Joint Observation Report, which was prepared by the GRP and RPF personnel at the place of incident reveals the availability of journey ticket bearing No. UPE 15942089 from Kacheguda to Gooty Jn with the deceased. The Respondent has verified the journey ticket filed by the applicants with CRI/Secunderabad Railway Station and found the details of journey ticket as it was issued at Kacheguda UTS No. E182CG78D7 and Ticket No. 00A 15942089 Ex. Kacheguda (KCG) to Gooty (GY) on 05.08.2019 at 22.30 hrs for one adult, fare Rs. 115/. Moreover, Respondent himself, in statutory enquiry report admitted the availability of the said train journey ticket with the deceased during Inquest. Therefore, there is no dispute about the said train journey ticket and thus, the bonafide status of the deceased is proved.

Untoward Incident:

11. So far as the untoward incident is concerned, as per claimants the incident happened during journey hours and deceased was died due to accidental fall from running Train No. 19301 Dr.Ambedkar Naagar Indore – Yesvantpur Express. Hence, the death of deceased is covered under Section 123(c)(2) as well as Section 124-A of Railway Act, 1989 and applicants are entitled to get compensation regarding untoward incident.

12. Per contra, Respondent refuted by stating that there was no eyewitness to the incident to establish that the deceased had fallen down from Train No.19301



Dr. Ambedkar Nagar Indore – Yeshwantpur Express and further submitted that the Guard of Train No. 19301 Express stated during the statutory enquiry that, he did not notice or receive information about any untoward incident or any information of passenger fallen down from the running train and there was no ACP occurred to the train during its run between Kacheguda and Dhone Stations.

13. From perusal of case file, it is found that on 06.08.2019 at 07.00 hrs., Sri Kanta Rao, Constable No. 3362 while he was performing patrolling duty at Kacheguda Railway Station received information from his Station in-charge stating that one male dead body was lying beside the track at KM No. 07/40-4 in between Kacheguda and Malakpet stations,. He went to the place of incident and found a male dead body aged about 35 years and informed the same over phone to Dy. Station Master/Kacheguda Railway Station, Sri R.B. Meena, informed the same to SI/GRP/KC and IPF/KCG for further action and a case was registered under Cr. No.166/2019 dated 06.08.2019 U/s. 174 CrPC by GRP/Kacheguda. FIR (Ext.A1) is available with case file along with message of Dy. SS/Kacheguda RS recorded during the statutory enquiry, which proves that the body of the deceased was found at KM No. 07/40-4 in between Kacheguda and Malakpet stations due to accidental fall from running train during journey hour. Inquest Report (Ext.A3), reveals that the deceased sustained injuries viz., 1) face and head of the deceased are broken and brain came out 2) left hand fingers are crushed 3) small injuries and abrasion injuries to the legs of the deceased. The PME (Ext.A4), which was conducted on the body of the deceased on 06.08.2019 reveals the cause of death as "due to crush injury of head", it corroborates with the inquest report

14. As contended by respondent, even if there is no eye witness, it is clear that this is a case of fall from train. The body of the deceased could not have been found on railway premises, if he was not travelling by a train.

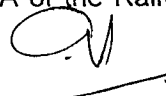
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15. The Respondent has contended that, since neither the deceased nor his wife has a mobile phone on the date of incident, how the deceased had informed his wife about his journey. The contention of the Respondent is ruled out, since AW.2 in his deposition stated that, as the deceased did not have mobile phone to inform about his journey to his wife, the deceased used his mobile phone and informed to his in-laws about his journey, who in return informed to wife of the deceased. The other contention of the respondent is that there is contradiction between the statement of friend of deceased and the brother of the deceased. On perusal of both statements of these two persons, it is found that there is minor discrepancy in the timings of leaving of house by the deceased as stated by both of them. Since Chapter XIII of Railways Act, 1989, is a piece of welfare legislation, the minor discrepancies, if any, would not have any impact on the fact and circumstances of the case, hence they may be ignored.

16. It is established fact that the deceased was in possession of journey ticket at the time of incident.. It is also proved that the body of the deceased was found lying beside the track at KM No KM No. 07/40-4 in between Kacheguda and Malakpet stations, within the precincts of railways. AW.2 has deposed that he has seen the purchase of journey ticket by the deceased. Respondent contended that during the Inquest, Police found that, deceased was hit by an unknown train but applicants have denied it and clarified that it is written only due to assumption but not based on any true fact.

17. Once it is established that the deceased was a bonafide passenger and his body was found within the precincts of Railways, the burden lies on the Respondent railway to prove that the deceased did not die due to an untoward incident. However, the Respondent did not adduce any evidence to prove the same. Respondent in its statutory enquiry report did not prove that this case comes under any of the exceptions (a) to (e) to Sec.124A of the Railways Act to



absolve itself from the liability of payment of compensation. Hence, it is held that the deceased was a bonafide passenger at the time of incident and died due to an accidental fall from the train, which amounts to an untoward incident within the meaning of Section 123(c) read with Section 124-A of Railways Act. This issue is answered in favour of the applicants.

ISSUE No.1

18. As per para No. 6 (e) of claim application, applicants are the wife and children of the deceased. Applicants have filed Family Member Certificate (Ext.A6), to prove their relationship with the deceased, wherein the Applicants Nos.1, 2 & 3 are shown as wife and daughters of the deceased. In view of the production of this certificate, the Applicants being Wife and two Daughters are held to be the dependents of the deceased as defined under Section 123 (b) of the Railway Act, 1989.

ISSUE Nos.3 & 4

19. In view of the findings on issue Nos.1 and 2, the applicants are held entitled to receive the compensation. The applicants are entitled to a sum of Rs. 8,00,000/- (Rupees eight lakhs only) with interest @ 9% p.a. from the date of accident till the date of payment.

20. In the result, it is, therefore,

Ordered

that the application of the Applicants is hereby allowed on contest, but without costs.

21. The Respondent is hereby directed to pay the applicants a sum of Rs.8,00,000/- (Rupees eight lakhs only) with interest @ 9% p.a. from the date of accident till the date of payment in the following manner.



- (i) A sum of Rs. 6,00,000/- (Rupees Six lakhs only) is awarded to Applicant No. 1. Out of said amount, a sum of Rs. 60,000/- (Rupees sixty thousand only) along with accrued interest, in the same proportion as the compensation shall be released in her favour through Electronic Clearing System (ECS) and remaining amount Rs.5,40,000/- (Rupees Five lakhs forty thousand only) shall be kept in 54 fixed deposits of Rs. 10,000/- each for the period of one month to 54 months respectively with cumulative interest. The maturity amounts of the FDR(s) be credited by ECS in the savings bank account of the applicant No.1 near to the place of her residence.
- (ii) A sum of Rs.1,00,000/- each (Rupees one lakh only) is awarded to Applicants Nos. 2 & 3 and the same shall be kept in fixed deposits in a nationalized bank near the place of their residence for a period till they attain the age of majority, under the guardianship of the Applicant No.1 with liberty to draw quarterly interest by Applicant No.1 towards their maintenance. On attaining majority, Applicant Nos. 2 & 3 can claim the amount directly without approaching the Tribunal.
- (iii) Respondent is directed to pay the amount to the applicant within 60 days from the date of receipt of mandate from subsequent to this order, failing which the applicant shall be entitled to interest @ 9.5% p.a. from the date of submission of mandate form 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, details of their bank accounts near the place of their residence, 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 applicant(s).
- (viii) No loan, advance, withdrawal or pre-mature discharge will 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 the 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 the 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.

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 judgment 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.

(G. John Prasad)
(G. JOHN PRASAD)
MEMBER (TECHNICAL)

(Gyan Prakash Tewari)
30.10.23
(GYAN PRAKASH TEWARI)
MEMBER (JUDICIAL)

APPENDIX**Witnesses for the Applicant:**

- 1) AW.1 - M. Lakshmi
- 2) AW.2 - D. Muni Krishna

Exhibits for the Applicants:

- 1) Ext.A.1 - Original journey ticket
- 2) Ext.A.2 - Attested copy of FIR
- 3) Ext.A.3 - Attested copy of Inquest Report
- 4) Ext.A.4 - Attested copy of PME
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- 6) Ext.A.6 - Family Member Certificate
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- 10) Ext.A.10 - Aadhar card copy of Applicant No.2
- 11) Ext.A.11 - Aadhar card copy of Applicant No.3
- 12) Ext.A.12 - Aadhar card copy of D. Muni Kumar

Exhibits for the Respondent:

- 1) Ext.R.1 - DRM Report

30/10/23
 (G. JOHN PRASAD)
 MEMBER (TECHNICAL)

al 30/10/23
 (GYAN PRAKASH TEWARI)
 MEMBER (JUDICIAL)