

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

CORAM

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

OA II (u) 244/2015

Date of filing : 17.08.2015.
Date of decision : 06.12.2023.

1. P. Jyothi, W/o Late P. Madhusudhana Rao,
aged about 34 years, Occ: Agriculture Coolie
2. P. Veeranjanyulu, S/o Late P. Madhusudhana Rao,
aged about 02 years, Occ: Minor

(Applicant No.2 being minor represented by his mother, natural guardian and Applicant No.1)

Both are R/o.D. No.1-97, Ramanalavaripalem Village,
Pamidipadu Post, Nuzendla Mandal, Guntur District,
Andhra Pradesh, Pin - 522 660.

... Applicants.

Versus

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

... Respondent.

Claim for Rs.10,00,000/- (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.10,00,000/- with interest from Respondent Railway for the death of P. Madhusudhana 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 11.05.2015.
2. It is pleaded in the OA that the deceased, a resident of Ramanalavaripalem Village, Nuzendla Mandal, Guntur was an agricultural coolie

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by occupation and by informing his wife he went to Tarlupadu Village, attended marriage of his relative and with a view to return home he went to Tarlupadu Railway station in the afternoon hours of 11.05.2015, purchased passenger train journey ticket bearing No.C53169834 from Tarlupadu to Vinukonda, informed about his journey to his wife and relatives over cell phone and boarded in Train No.57623 Kacheguda – Guntur passenger in General Compartment and left. During journey, as there was a heavy rush of passengers in the compartment, suddenly due to speed, jolts and sudden jerks of the train, the deceased slipped and fell down accidentally from the running train at Km.No.137/7-8 in between Markapuram and Gajjelakonda Railway Stations and as a result he was dragged by train, rolled down by the side of Railway track into bushes, sustained severe head injury along with other multiple fatal injuries and died on spot in the same day evening hours of 11.05.2015. Applicants are wife and son of the deceased. Being dependents of the deceased, they filed this claim application.

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, Respondent submitted that there was no eye witness to the incident and as per statement of Loco Pilot who worked Train No.57623 on 11.05.2015 from Nandyal to Guntur, neither jerks or jolts were noticed for the said train nor the passengers complained about any untoward incidents during its run up to Guntur. It was reiterated by Respondent that the dead body of the deceased was first noticed by on duty Keyman near the bush at Km.No.137/7-8 in between Markapuram and Gajjelakonda Railway stations and mere finding of dead body near the track does not construe that the deceased travelled by train and died in an untoward incident. Respondent also denied that the deceased was bonafide passenger of Train No.57623 Kacheguda – Guntur Passenger on

11.05.2015 and hence this case is not fit for the claim of compensation and liable to be dismissed.

4. From the pleadings, following issues were framed on 27.09.2016:

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?*

5. In support of the claim, Applicant No.1 (Wife of the deceased) filed her affidavit as examination-in-chief as AW.1 and filed the documents, which are marked as Exhibits as under:-

- | | | |
|--|---|----------|
| 1) Attested copy of FIR | - | Ext.A.1. |
| 2) Attested copy of Inquest Report | - | Ext.A.2. |
| 3) Attested copy of PME Report | - | Ext.A.3. |
| 4) Original Death Certificate of the deceased | - | Ext.A.4. |
| 5) Family Members Certificate | - | Ext.A.5. |
| 6) Photocopy of Ration Card | - | 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 her deposition, Applicant No.1 as AW.1 stated that her husband, the deceased, by informing her went to Tarlupadu village and attended marriage of their relative and in return journey he boarded train No.57623 Kacheguda – Guntur passenger at Tarlupadu Railway station by purchasing a 2nd class ordinary passenger train ticket bearing No.C53169834 from Tarlupadu to Vinukonda and informed about his journey to her as well as to their relatives over cell phone. As her husband did not turn up home, she along with her parents, younger brother and some other relatives made several efforts to find him, but in vain. She came to know about the incident from Railway police on 13.05.2015 at about 07:00 pm. She further deposed that Panchanama held on 14.05.2015 in their presence and original train journey ticket was recovered from the body of her husband which was retained by Railway police after mentioning the particulars of ticket in the Panchanama. During cross examination, she denied

the suggestion of counsel for respondent that her husband died due to some other reasons and not due to fall from running train.

The learned counsel for Applicants has relied upon the following decisions in support of his case –

- i. MFA No.30503 of 2008 (RCT) decided on 11.12.2015 – Mallappa & Another Vs Union of India, in the Hon'ble High Court of Karnataka, Kalaburagi Bench.
- ii. CMA No.2286 of 1999 decided on 20.09.2004 – N. Buchilingam & Others, in the Hon'ble High Court of Andhra Pradesh at Hyderabad.

6. Respondent has not examined any witness. As a documentary proof, Respondent filed DRM Report which is marked as Ext.R.1.

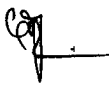
7. Heard both sides Counsels and perused the case file. On consideration of materials available on record and the contentions of the Ld. Counsels appearing for both the parties, issues wise findings are recorded as follows:-

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?*

Bonafide Status:

8. As per claimants, the deceased P.Madhusudhana Rao, a resident of Ramanalavaripalem Village, Nuzendla Mandal, Guntur District went to Tarlupadu village, attended his relative's marriage there and during return journey by train No.57623 Kachguda – Guntur Passenger from Tarlupadu Railway station on 11.05.2015 after purchasing a 2nd class passenger train journey ticket, he slipped and fell down from running train at Km.No.137/7-8 between Markapuram and Gajjalakonda Railway stations owing to rush of passengers and due to speed, jolts and sudden jerks of the train and as a result he sustained severe head injury, other multiple fatal injuries and succumbed to injuries at spot on 11.05.2015. 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, he was a bonafide passenger at the time of incident. Respondent denied the bonafide status of the deceased in its Written Statement.

9. To prove the bonafide status, Applicants have filed photocopy of journey ticket bearing No.C53169834 available with case file as Document No.1. During inquest journey ticket was recovered from the dead body of the deceased as mentioned at Para No.VII of the inquest report which is Ex.A-2 that –

"In the place of offence, at a distance of two feet there is one Intex Cell phone and beside that Coffee colour small phone numbers book and in it, three Rs.20/- Notes, Six Rs.10/- Notes and Train Journey Ticket No.C-53169834 from Turlapadu to Vinukonda, AD-1, Valued Rs.20/-, dated 11.05.2015 at 12:45 hrs, except these, there are no any Silver and Gold ornaments with the Deceased"

In her Affidavit as examination-in-chief, AW-1 wife of the deceased stated that she was present during inquest and original journey ticket was recovered from the dead body of her deceased husband and it was retained by Railway police after entering the journey ticket details in the Inquest report. Applicants could not file original journey ticket. However, nothing was filed by Respondent Railway to discard or contradict the copy of journey ticket filed by Applicants.

10. So far the Respondent is concerned although in its Written Statement, the journey ticket of the deceased is not admitted expressly but it was concluded in the DRM report as per statements of Sri Prabhakar, HC-377, GRP/Markapur and Sri B.Rama Rao, RPF Constable No.1028 Markapur Outpost that the deceased was in possession of railway journey ticket and also evidence available with case file proves that deceased was travelling from Turlapadu to Vinukonda by 2nd class passenger train journey ticket No.53169834 which is filed and proved as Ex.A-1. When it is mentioned in the inquest report that the original journey ticket was recovered from the deceased, it clearly established that the deceased purchased railway journey ticket and hence he is a bonafide passenger.

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.

11. Hence the material available on record proves that at the time of incident on 11.05.2015, the deceased P.Madhusudhana Rao was travelling from Tarlupadu to Vinukonda holding a valid journey ticket bearing No.C53169834, got injured during journey hour and succumbed to injuries. Hence, bonafide status of the deceased is proved.

Untoward Incident:

12. So far as untoward incident is concerned, as per claimants, deceased was travelling from Tarlupadu to Vinukonda with a valid journey ticket and incident happened during the journey hour of the train concerned. Further, it is stated by the Applicants that there was a heavy rush of passengers in the compartment, due to speed, jolts and sudden jerks of the train, the deceased suddenly slipped and fell down accidentally from running passenger train and died. Therefore, the death of the deceased is fully covered under the purview of Sec.123 (c) (2) and as well as Sec.124(A) of the Railways Act.

13. *Per contra*, Respondent Railway refuted the averments made in the Claim Application and contended that there was no eye witness to the alleged fall of the deceased from running train and neither ACP attempted to stop the train nor were there any jerks or jolts to the said train on the date of incident on 11.05.2015, hence, death of the deceased is not due to accidental fall from train rather and it is a case of suspicious death.

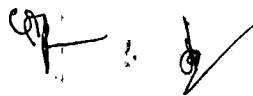
14. To prove averments made in claim application, wife of the deceased examined herself as AW-1 and to prove their case the documents annexed with claim application which are marked as Ext.A.1 to Ext.A.9. The dead body of the deceased was first seen by Chinnabalaiah, Keyman working under control of

JE/P-Way/Markaur beside railway track at Km.No.137/7-8 between Markapur and Gajjalakonda stations at about 11:00 hrs on 13.05.2015 and he intimated the same to Station Superintendent, Gajjalakonda for further course of action. SS/Gajjalakonda given a written memo to SI/GRP/Nandyal through Dy. Station Manager, Nandyal on 13.05.2015 at 13:05 hrs which is available in case file as Page No.25. Sri B.Rama Rao, RPF Constable No.1028, Markapur Outpost along with Sri Prabhakar, HC-377, GRP, Markapur attended the spot and identified the deceased as P.Madhusudhana Rao, aged 40 years. RPF Constable No.1028 was present during inquest and he was one of the Panchas. It is observed from the Inquest report, the opinion as to the apparent cause of death is recorded as fall from train by way of surmise since the body was found by the railway track. Therefore, it is admitted by Respondent that the dead body of the deceased was found in the Railway premises and in possession of valid train journey ticket, genuineness of which is not disputed or contradicted during statutory enquiry.

15. So far as argument advanced by the Respondent is concerned, there is no eye witness of the accident and death of the deceased is alleged to have been occurred on 11.05.2023 but the body was found on 13.05.2023 and hence it is a suspicious case.

16. As per Ex.A3 PME report, the autopsy was conducted on 14.05.2015 and during PME fracture to skull and lacerated wounds and injuries were observed on the body and it was opined by the Doctor that cause of death of the deceased was due to '*hemorrhagic shock due to skull fracture*' and time of death is 3 to 4 days prior to Post Mortem.

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. It is proved that the deceased was a bonafide passenger and when the dead body of the deceased was found in the Railway precincts, onus lies on the Respondent Railway to prove that the incident was not an untoward incident which falls under the purview of exceptions enumerated under the proviso of

Sec.124-A of Railways Act. Therefore, because of nothing is available to support the case of the Railways, argument advanced above has no force. Moreover, the Railways has not established that death of the deceased falls under exceptions (b) to (c) of proviso to Section 124-A of the Act. Hence, the argument advanced by Respondent has no substance.

Railway Compensation Law is a welfare legislation made for the welfare as well as for the benefit of the victims, if respondent wants to take the benefit regarding the death of the deceased as self-inflicted, criminal act, etc., it must be proved with cogent evidence in which they failed. 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.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?*

20. Originally this OA was filed by the wife and minor son of the deceased. To prove their relationship with the deceased, they filed Family Member Certificate (Ext.A-5) issued by Tahsildar of Nuzendla Mandal. Further they have produced copies of Aadhar card of Deceased (Ext.A-7), Applicant No.1 (Ext.A-8) and Applicant No.2 (Ext.A-9). There is no objection from Respondent side about inter-se relation of the Applicants and their relationship with the deceased. 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?*

21. In view of the findings on Issue Nos.1 & 2, Applicants are entitled to get compensation towards the death of the deceased in an untoward incident. Since

the deceased died on 11.05.2015, as per the pronouncement of the Hon'ble Supreme Court in the case of *Union of India vs. Rina Devi* and *Union of India Vs Radha Yadav*, if incident occurred prior to 01.01.2017, the amount of compensation payable on the date of accident with reasonable rate of interest shall be calculated first. If the amount so calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. Since the Tribunal is granting interest @ 9% per annum from the date of incident to the date of realization, the Applicants are entitled to get compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) which is the higher amount.

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

ORDER

Claim is allowed without costs.

23. The Respondent is directed to pay the Applicants a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) within 60 days from the date of receipt of requisite mandate forms from Applicants. The ratio of compensation amount shall be disbursed in the following manner:-

- (i) A sum of Rs.6,00,000/- (Rupees Six Lakhs only) is awarded to Applicant No.1 (wife of the deceased). Out of said amount, a sum of Rs.60,000/- (Rupees Sixty Thousand only) shall be released in her favour through Electronic Clearance 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, 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.2,00,000/- (Rupees Two Lakhs only) is awarded to Applicant No.2 (minor son of the deceased) which shall be kept in fixed deposit till the attainment of his majority with liberty to Applicant No.1 to withdraw quarterly interest of FDs for maintenance of Applicant No.2.

On attainment of majority of Applicant No.2, bank shall deposit the matured amount along with interest, if any, directly into the bank account of Applicant No.2 without approaching the Tribunal.

- (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 forms 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 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.
- (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.

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

CP *d*

25. 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 copy
(G. John Prasad)
Technical Member

PS 6/12/23
(R. Sathyabama)
Judicial Member

APPENDIX

WITNESSES EXAMINED FOR APPLICANT:

1) AW.1 - P. Jyothi

DOCUMENTS MARKED FOR APPLICANTS:

- 1) Ext.A-1 - Attested copy of FIR
- 2) Ext.A-2 - Attested copy of Inquest Report
- 3) Ext.A-3 - Attested copy of PME Report
- 4) Ext.A-4 - Original Death Certificate of the deceased
- 5) Ext.A-5 - Family Members Certificate
- 6) Ext.A-6 - Photocopy of Ration Card
- 7) Ext.A-7 - Photocopy of Aadhaar Card of deceased
- 8) Ext.A-8 - Photocopy of Aadhaar Card of Applicant No.1
- 9) Ext.A-9 - Photocopy of Aadhaar Card of Applicant No.2

WITNESSES EXAMINED FOR RESPONDENT:

NIL

DOCUMENTS MARKED FOR RESPONDENT:

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

COURT DOCUMENTS MARKED:

1) Ext.C1 - Case Diary file

certified copy
(G. John Prasad)
Technical Member

PS 6/12/23
(R. Sathyabama)
Judicial Member