

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

QUORAM:

GYAN PRAKASH TEWARI - **MEMBER JUDICIAL.**
G. JOHN PRASAD - **MEMBER TECHNICAL.**

Claim Application : OA II (u) 259/2015.
Date of filing : 24.08.2015.
Date of decision : 26.09.2023.

- 1) K. Laxmi, W/o. K. Gandhi Rao @ Gondhi Rao,
Aged 50 years.
- 2) K. Gandhi Rao @ Gondhi Rao, S/o. K. Chinnappa,
Aged 58 years.
**(Name of Applicant No.2 has been deleted from the array of Applicants
vide order dated 15.06.2023, since he died on 15.09.2016).**

R/o. D.No.1-2, S.C. Street, Mulipadu Village,
Sondipudi Post, Mandasa Mandal,
Srikakulam District, Andhra Pradesh.

... Applicants.

Versus

Union of India represented by
The General Manager,
East Coast Railway,
Bhubaneswar.

... Respondent.

Claim for Rs.10,00,000/- (With interest)

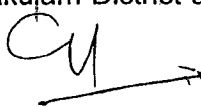
Ld. Counsel for Applicants - Shri N.P. Rao.
Ld. Counsel for Respondent - Shri N. Vara Prasad.

J U D G M E N T

1. This claim application is filed by the Applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Sections 124-A and 125 of Railways Act, 1989 seeking compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) with interest from the Respondent Railway for the death of Shri K. Venkateswara Rao (hereinafter referred to as "*the deceased*"), who allegedly died in an untoward incident from the train carrying passengers that occurred on 19.12.2014. Applicants are parents of the deceased.

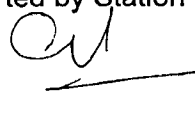
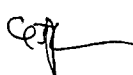
2. It is pleaded in claim application that the deceased was a native of Mulipadu Village, Sondipudi Post, Mandasa Mandal, Srikakulam District and was working as

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a Sales Executive in Exide Life Insurance at Vizianagaram Branch and as such, he was residing at Vizianagaram prior to the incident. With a view to go to Ichchapuram on official work, the deceased informed his wife and went to Vizianagaram Railway station in the afternoon hours of 19.12.2014, purchased a second class train journey ticket bearing No.53031352 from Vizianagaram to Ichchapuram and boarded the Train No.15929 (Chennai Egmore-Dibrugarh Express) in second class general compartment. While travelling, 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.644/20-22 in the yard of Sompeta Railway station due to speed, jolts and sudden jerks of the said running train. As a result, he sustained severe head injury and other multiple fracture and fatal injuries and died on the spot in the evening hours at 16:00 hrs., of 19.12.2014. Therefore, the Applicants have filed this claim application for compensation from Respondent Railway.

3. The Respondent Railway filed a detailed Written Statement along with DRM Report denying all the averments made in the claim application. In Written Statement, it is submitted that there is no cause of action for Applicants as the claim does not fall within the ambit of Section 124 and 124-A of Railways Act, 1989. It is further submitted that the Applicants mentioned in claim application that the deceased had fallen down due to sudden jerks of Train No.15929 and the incident had really happened, it could not have gone unnoticed by co-passengers and also had the incident really happened due to jerks of the said train, similar falls would have occurred in the whole train and a number of persons would have been admitted in the Hospital but no such similar falls did not take place. Respondent further submitted that there is no eye witness to the incident and the information about the availability of dead body was first reported by Station Staff Shri K. Paride,



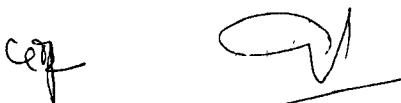
TPM-A/SPT and Shebina Shetti, TP/Sompeta and they found one courier cover, one Nokia mobile, one photo of a lady and Rs.40/- with the deceased, but no ticket was found. Whereas, in Inquest Report, the number of the train journey ticket was mentioned which implies that the said ticket bearing No.53031352 from Vizianagaram to Ichhapuram was planted for better known reasons. Respondent concluded in DRM Report that there is no eye witness to prove the circumstances leading to the incident. The alleged train passed through Sompeta Railway station and there is no stoppage at Ichhapuram Railway station which indicates that the deceased was not a passenger of Train No.15929 on 19.12.2014. Respondent further concluded that the Guard of the train denied having such information about the incident. Therefore, there was no wrongful act, negligence and default on the part of Railway administration. Hence, Railway is not liable to pay any compensation.

4. Upon pleadings of the parties, following issues were framed on 19.03.2020:

1. Whether the Applicant(s) is/are dependent(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, mother of the deceased, filed her affidavit as examination in chief as AW.1 and proved the documents, which are filed and marked Exhibited as under:-

- | | | |
|--|---|----------|
| 1) Attested copy of FIR | - | Ext.A.1. |
| 2) Attested copy of Inquest Report | - | Ext.A.2. |
| 3) Attested copy of Post Mortem Certificate | - | Ext.A.3. |
| 4) Original Death Certificate of wife of the deceased | - | Ext.A.4. |
| 5) Original Death Certificate of Applicant No.2 | - | Ext.A.5. |
| 6) Original Family Member Certificate | - | Ext.A.6. |
| 7) Original Election Identity Card of the deceased | - | Ext.A.7. |
| 8) Photocopy of Aadhaar Card of the deceased | - | Ext.A.8. |
| 9) Photocopy of Death Certificate of the deceased | - | Ext.A.9. |
| 10) Photocopy of Family Member Certificate through mee-seva- | - | Ext.A.10 |



Applicant No.1, accentuating the averments of claim application in the affidavit, submitted that Smt. K. Sravani @ Santhoshi (wife of the deceased), along with her daughter (K. Sai Sampath Dakshini, Aged: 4 years) and son (K. Srinivasulu, Aged: 1 year), committed suicide due to mental agony on 02.01.2015. She further submitted that Applicant No.2 (father of the deceased) also died on 15.09.2016 during pendency of the case. She also deposed on oath during cross examination that she had four children (two sons and two daughters). The deceased was her elder son, he was married and living separately. She could not tell the distance between her residence and her elder son. As she was aged, she never used to visit her son's house very frequently. She was not literate. Her deceased son was working for an insurance company, but she could not tell the name of the company and his designation. Whatever the details mentioned in the affidavit filed, they are only hearsay, but she does not know them directly. Palasa Police spoke to Sarpanch of her village and through Sarpanch, she got the information about the incident. She could not tell the name of the train in which her son was travelling. She could tell that her son purchased the ticket, but she could not tell in which train he travelled. She does not know any further details of the incident and ticket. Till date, she does not know whatever Police have enquired on the date of incident and how the incident happened. She could not tell why only photocopies were filed for certain documents. Her daughter-in-law and children of elder son were also died. Her younger son was taking care of her.

6. Respondent has not examined any witness, but filed DRM Report which is marked as Ext.R.1.

7. In support of the case of Applicants, Counsel for Applicants relied upon the judgements cited below:-

- a) First Appeal No.114/2022 before Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur in the case between Union of India vs Kishore & Ors.

- b) C.M.A. No.1069/2019 before Hon'ble High Court of Andhra Pradesh at Hyderabad in the case between Parisa Anjali and Ors. vs Union of India.
- c) A.A.O. No.501/1998 before Hon'ble High Court of Judicature, Andhra Pradesh in the case between K. Vidya Kumari and Ors. vs Union of India.

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

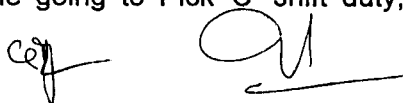
FINDINGS

For the purpose of convenience, Issue No2 is taken-up first and discussion is as follows:

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

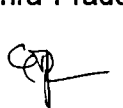
9. It is stated in claim application that the deceased (K. Venkateswara Rao) was working as a Sales Executive in Exide Life Insurance at Vizianagaram Branch and as such, he was residing at Vizianagaram prior to his accident. With a view to go to Ichchapuram on official work, the deceased informed his wife and went to Vizianagaram Railway station in the afternoon hours of 19.12.2014, purchased a second class train journey ticket bearing No.53031352 from Vizianagaram to Ichchapuram and boarded the Train No.15929 (Chennai Egmore-Dibrugarh Express) in second class general compartment. While travelling, as there was heavy rush of passenger, he suddenly slipped and fell down accidentally from the said running train at KM No.644/20-22 in the yard of Sompeta Railway station due to speed, jolts and sudden jerks of the said running train. As a result, he sustained severe head injury and other multiple fractures and fatal injuries and died on the spot in the evening hours at 16:00 hrs., of 19.12.2014. Therefore, being parents of the deceased, the Applicants are entitled to compensation from Respondent Railways.

10. Whereas, Respondent argued that Shri Thabira Sethi and Shri K. Parida on-duty TP/Sompeta Railway station, while going to Pick-'C' shift duty, noticed the



gathering of some persons at Down line track at KM No.644/22 of Sompeta Railway station yard. Immediately, they reached the spot and found one male dead body was lying there. On asking the gathered people, they stated that the deceased had fallen down from Train No.15929 Express. After arrival at the station, they reported the matter to Station Master, Sompeta Railway station, who in-turn made diary entry and relayed the matter to all concerned. Respondent further argued that the Guard of Train No.15929 executed his duty from Visakhapatnam to Khurda Road Railway station and neither he noticed nor received any information regarding occurrence of untoward incident by the said train. Respondent further argued that there is no eye witness to prove the circumstances leading to the incident. The alleged train passed through Sompeta Railway station at about 16:02 hrs., and said recovered ticket was issued from Vizianagaram to Ichchapuram and there is no stoppage for this train at Ichchapuram Railway station, which indicates that the deceased was not a passenger of Train No.15929 on 19.12.2014. Hence, there is neither wrongful act, negligence nor any default on the part of Railway administration.

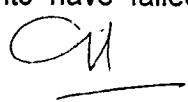
11. From the perusal of the case file, it is found that the genuineness of the journey ticket No.53031352 has been verified by the Respondent and it is established that the said ticket was issued at Vizianagaram Railway station for the purpose of journey from Vizianagaram to Ichchapuram Railway station on 19.12.2014 as per records. It is pertinent to mention that on verification by the Tribunal about the schedule of alleged Train No.15929 (Chennai Egmore – Dibrugarh Express), it has come to the light that the said train did not have any scheduled stoppage either at Vizianagaram Railway station, where the ticket was purchased or at Ichchapuram Railway station, the destination station of the deceased. The alleged train does not have any scheduled stoppage between Visakhapatnam Railway station (Andhra Pradesh) and Brahmapur Railway station



(Odisha), but the body of the deceased was found at Sompeta Railway station which is situated in the enroute of above two stations and it creates suspicion.

12. It is also pertinent to mention that the deceased was a Sales Executive in Exide Life Insurance Company which implies that he is well educated and not nescient to board a train which does not have scheduled stop at his destination station i.e., Ichchapuram. Moreover, it is not understood that as to how the deceased could have boarded the train No.15929 Express at Vizianagaram Railway station, where there is no scheduled stop for the said train, which again creates doubt about the bona fide status of the deceased. Mere availability of a body in Railway precincts does not mean that the particular person is involved in an untoward incident, unless or otherwise it is proved. In the case on hand, there is no possibility for the deceased to board the said train at Vizianagaram Railway station as there is no scheduled stop for the alleged train. Under given circumstances, it appears that the Applicants have not approached the Tribunal with clean hands and the journey ticket filed by them seems to be an after-thought and accordingly, we are of the opinion that the deceased might have died due to the reasons other than accidental fall from a running train.

13. To have compensation under Section 124A of the Railways Act, 1989, Applicants have to satisfy two main ingredients independently i.e., *"the accidental falling from a train carrying passengers"* and (2) he must have a *"valid ticket or authority/Railway pass"* for travelling by a train carrying passengers. It is, therefore, evident that while this is a welfare legislation, with reference to the liability of the Respondent, so far as the entitlement is concerned, first it has to be established that the victim was a bona fide passenger and secondly he became a victim of an *untoward incident*. In the present case, Applicants have failed to prove both ingredients.



14. In view of the discussion supra, we hold that the deceased was not a bona fide passenger and he died due to the reasons other than accidental fall from a train. Thus, this issue is decided against the Applicants and in favour of the Respondent.

Issue Nos.1, 3 & 4:

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

16. Further, it is respectfully submitted that the judgements cited by Counsel for Applicants are not applicable in the present case, since the facts and circumstances are different from the cases cited by the Counsel for Applicants.

17. As a result, it is, therefore,

Ordered

that the claim application filed by the Applicants is devoid of merits and hence dismissed, on contest. There is no order as to costs.

18. **The Registry** shall supply a copy of this Order to the Applicants and the Respondent separately by Speed Post in compliance of Rule 34(3) of the Railway Claim Tribunal (Procedure) Rules, 1989.

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

Gyan Prakash Tewari
(Gyan Prakash Tewari)
Member Judicial

APPENDIX

WITNESSES EXAMINED FOR APPLICANTS:

- 1) AW.1 - K. Laxmi.

DOCUMENTS MARKED FOR APPLICANT:

- 1) Ext.A.1 - Attested copy of FIR.
- 2) Ext.A.2 - Attested copy of Inquest Report.
- 3) Ext.A.3 - Attested copy of Post Mortem Certificate.
- 4) Ext.A.4 - Original Death Certificate of wife of the deceased.
- 5) Ext.A.5 - Original Death Certificate of Applicant No.2.
- 6) Ext.A.6 - Original Family Member Certificate.
- 7) Ext.A.7 - Original Election Identity Card of the deceased.
- 8) Ext.A.8 - Photocopy of Aadhaar Card of the deceased.
- 9) Ext.A.9 - Photocopy of Death Certificate of the deceased.
- 10) Ext.A.10 - Photocopy of Family Member Certificate through mee-seva.

WITNESSES EXAMINED FOR RESPONDENT: NIL

DOCUMENTS MARKED FOR RESPONDENT:

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

Q. T. Prasad 26/9/23
John Prasad)
Member Technical

Q. T. Prasad 26/9/23
(Gyan Prakash Tewari)
Member Judicial