

**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) 291/2015

Date of filing : 24.09.2015.

Date of decision : 15.04.2024.

1. P. Jayanna, S/o. Late P. Chinna Guravanna,
aged about 45 years, Occ: Agriculture,
R/o. H.No.2-149, S.C.Colony, Perur Village,
Yerraguntla Post, Rudravaram Mandal,
Kurnool District, Pin: 518510.
2. Gijiri Danamma, W/o. Late Chinna Narasimhulu,
aged about 42 years, Occ: Coolie,
R/o. 3-119, Mahadevapuram,
Kurnool District, Pin: 518510.
3. Kanala Jayamma, W/o. K. Pullaiah,
aged about 39 years, Occ: Coolie,
R/o.1-85, Mahanandi, Gopavaram,
Kurnool District.
4. Palle Sujatha, W/o. Devadanam,
aged about 31 years, Occ: Coolie,
R/o.4-22, Avulamanda,
Kurichedu Mandal, Prakasam District.
5. Mallavarapu Swapna, W/o. Baburao,
aged about 30 years, Occ: House wife,
R/o. 42-68-6, Ajith nagar,
Vijayawada, Krishna District

(Applicant Nos.2 to 5 are impleaded in the
array of Applicants vide order dated
24.02.2022 in IA.No.90/2021)

... Applicants.

Versus

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

... Respondent.

OA II (u) 291 of 2015

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

Sri N. P. Rao - Ld. Counsel for Applicants.
Sri G. Ankamma Rao - 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. Asirvadamma (hereinafter referred to as "the deceased") who allegedly died on 15.07.2015 due to an untoward incident of hit by train carrying passengers that occurred on 14/15.07.2015.

2. It is pleaded in the OA that the deceased, a resident of Peruru Village, Yerraguntla Post, Rudravaram Mandal, Kurnool District was an Agriculture coolie. With a view to attend Mary Matha Tirunallu at Phirangipuram, the deceased accompanied by her relative Smt. P. Obulamma went to Nandyal Railway station in the night hours of 14.07.2015, purchased a combined passenger train journey ticket bearing No.C-55193781 from Nandyal to Phirangipuram for two of them and were waiting on Platform No.1 for arrival of train No.57305 Kacheguda – Guntur Passenger which they intend to board. Upon hearing an announcement that Train No. 57305 would be arriving on Platform No.2, the deceased along with her relative along with some other passengers got down from Platform No.1 and proceeding towards Platform No.2 by crossing the tracks. While crossing the track, suddenly, the deceased was hit by Train No. 57305 Kacheguda – Guntur Passenger which entered the Railway station without head light and blowing horn in the night hours, as a result, the

deceased sustained multiple severe and fatal injuries within the precincts of Nandyal Railway Station in the intervening night of 14/15-07-2015. The injured (later on deceased) was shifted to Govt. General Hospital, Nandyal by concerned Railway station staff, officials and Railway police by 108 Ambulance and admitted her as in-patient but she died in the early hours of 15.07.2015 while undergoing treatment. Applicants are children of the deceased. Being family members and 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. Respondent submitted that in the O.A., Applicants have admitted that the deceased was hit by Train No.57305 passenger while she was going from Platform No.1 to Platform No.2 by crossing the track. Respondent contended that the incident had happened due to carelessness of the deceased. Placing reliance on DRM statutory enquiry, Respondent submitted that the Loco Pilot of the train in his statement had stated that he witnessed the incident where the deceased trespassed the Railway Track without observing train movements. Respondent further submitted that the act of the deceased amounts to self-inflicted injury which comes under the purview of exception (b) of Section 124-A of Railways Act and such act would disentitle the Applicants to claim compensation. 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 30.11.2016:

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 (Son of the deceased) filed his chief examination affidavit as AW.1 and to prove their case filed the following documents which are marked and exhibited as under:-

- | | | |
|--|---|----------|
| 1) Attested copy of train journey ticket | - | Ex.A.1. |
| 2) Attested copy of FIR | - | Ex.A.2. |
| 3) Attested copy of Inquest report | - | Ex.A.3. |
| 4) Attested copy of PME | - | Ex.A.4. |
| 5) Original Family Member Certificate | - | Ex.A.5. |
| 6) Death Certificate of the deceased | - | Ex.A.6. |
| 7) Photocopy of Aadhaar Card of the deceased | - | Ex.A.7. |
| 8) Photocopy of Aadhaar Card of Applicant No.1 | - | Ex.A.8. |
| 9) Photocopy of Aadhaar Card of Applicant No.2 | - | Ex.A.9. |
| 10) Photocopy of Aadhaar Card of Applicant No.3 | - | Ex.A.10. |
| 11) Photocopy of Aadhaar Card of Applicant No.4 | - | Ex.A.11. |
| 12) Photocopy of Aadhaar Card of Applicant No.5 | - | Ex.A.12. |
| 13) Attested copy of proceedings of Mandal Executive Magistrate, Nandyal | - | Ex.A.13. |

In his affidavit, AW.1 reaffirmed the averments made in the claim application and further deposed that the deceased was his mother and Applicant Nos.2 to 5 are his sisters. His father predeceased his mother. He was not an eye witness to the incident. He came to know about the incident from Obulamma, his relative and co-passenger of the deceased as well as through Railway police. On receipt of information, he rushed to Hospital, Nandyal at about 07:00 am on 15.07.2015. Police held Panchanama in his presence and he along with said Obulamma were examined by the police. Journey ticket was available with co-passenger Obulamma and the same was handed over to police during inquest. The journey ticket was kept with police for their record purpose. During cross-examination, AW-1 denied the suggestion of counsel for

Respondent that his mother met with an accident while crossing the track negligently.

P. Obulamma filed her third party affidavit as AW-2 and deposed that she was an eye witness to the incident. The incident was happened at Nandyal Railway station when she along with the deceased were proceeding to Platform No.2 from Platform No.1 by crossing the Railway Track. At that time, it was raining and they could not hear the horn sound of the train. After the incident, she had been examined by police. They have purchased a combined train journey ticket from Nandyal to Phirangipuram and the same was recovered from the possession of the deceased. During cross examination, she deposed that as the deceased could not climb steps they crossed the railway track to reach Platform No.2. Being illiterate, she did not know that crossing the railway track was a crime.

6. **Summary of Respondent Evidence:** Respondent Railway examined K.Pandu, Loco Pilot, Dhone as RW.1. The Respondent filed DRM Report as documentary evidence which is marked as Ext.R.1. It is concluded in DRM report at Page Nos.47 & 48 that the deceased had trespassed the Railway Track with an intention to climb Platform No.2 though foot over bridge is available and there was a sufficient time to board the subject train. As per Loco Pilot of the train, an eye witness of the incident the slackness of the deceased led to her death and she had not taken minimum precautionary measures to complete her journey. Hence Railway is not responsible for any claim in this case though there was a ticket in possession of the deceased.

7. RW-1 deposed that on 14/15.07.2015, he had worked as Loco Pilot for Train No. 57305 Passenger and during his duty hours, while the train was

approaching Nandyal Railway Station at about 00:45 hours with head light and continuous blow of horn, he had noticed one aged women suddenly trespassed on track from Platform No.1 side with an intention to climb Platform No.2. In an attempt to stop the train, he applied emergency brakes but he could not control the train and knocked the aged woman, as a result, she sustained injuries. He had attended the injured and informed the matter to on duty Dy.SS/Nandyal as well as Guard of the train and the injured woman was shifted to Hospital through 108 Ambulance for treatment. During cross examination, it was clarified by RW-1 that train engine's headlight was working and he had blown horn while approaching Nandyal Station.

8. 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?*

9. As per claimants, the deceased with a view to attend Marymatha Thirunallu (Jathara) at Phirangipuram, went to Nandyal Railway station in the night hours of 14.07.2015 accompanied by her relative P. Obulamma, purchased 2nd class ordinary passenger train journey ticket from Nandyal to Phirangipuram for both of them and waiting on Platform No.1 for train No.57305 to arrive. But upon announcement that the said train would arrive on platform No.2, the deceased along with AW-2 were proceeding to platform No.2 in a hurry by crossing the track, suddenly the deceased was hit by Train No.57305 Kacheguda – Guntur Passenger, as a result, she sustained severe injuries. After

the incident, she was shifted to Govt. Hospital, Nandyal by Railway Personnel where she succumbed to injuries during treatment on 15.07.2015. As per claimants, the deceased had purchased a train journey ticket and the incident was happened in Railway premises i.e. at Nandyal Station, hence, she was a bonafide passenger at the time of incident.

10. To prove their case, Applicants have filed attested copy of journey ticket bearing No.C-55193781 with travel entitlement in 'II Ordinary' for two adults from Nandyal to Phirangipuram issued on 14.07.2015 at a fare of Rs.100/-. Respondent has not disputed the bonafide status of the deceased as journey ticket was recovered from the possession of the deceased. It was explicitly mentioned in DRM report that the deceased was in possession of train journey ticket. Hence, there is no dispute as far as the bonafide status of the deceased as a 'Passenger' as defined in 'Explanation' of Section 124A of Railways Act which is mentioned below:

"Explanation.--For the purpose 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."

11. In this case, there are two eye witness, one from Applicant side, AW-2 and co-passenger of the deceased and another eye witness is from Respondent side, the Loco Pilot of the subject train. As per version of Loco Pilot of the train, the deceased was crossing the track and in an attempt to climb platform No.2, she fell down and hit by his train while entering into the Nandyal Station. The evidence of Loco Pilot gives credence to the evidence of AW-2 as well as plea of

the Applicants that the deceased was hit by train while crossing the Railway Track. The incident was happened at Nandyal Railway station and after the incident, the injured was shifted to Hospital by Station Superintendent, Nandyal Station.

12. From the accounts of both the eye witnesses and available evidence with the case file, it is clear that the deceased was hit by train while proceeding from Platform No.1 to Platform No.2 by crossing the track and subsequently died due to injuries sustained in the incident. The only question to be answered is whether the incident falls under the purview of an 'untoward incident' as defined in Section 123(c)(2).

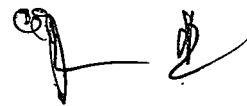
13. On one hand, it is the contention of the Applicants that the deceased was hit by train when she was proceeding to Platform No.2 to board the same train which can be termed as 'untoward incident' but on the other hand, the contention of the respondent is that the deceased trespassed the railway track in a negligent manner tantamount to self-inflicting injuries and the act falls under exception (b) of proviso to Sec.124-A of Railways Act which would disentitle the Applicants to claim compensation.

14. It is proved that the deceased was holding a valid train journey ticket to travel from Nandyal to Phirangipuram. The intent of the deceased was to travel by train with a valid train journey ticket is beyond doubt. In the instant case, there is no evidence to prove that the deceased was having an intention to indulge in self-inflicted injuries. The deceased was an elderly person, and it is common for passengers to hurry to catch a train. Considering her age, it is likely that she avoided climbing the foot over bridge and resorted to cross the Railway Track to catch the train.

Hon'ble Supreme Court in the case of 'Union of India Vs. Prabhakarn Vijay Kumar & Others, 2008(4) MLJ page No.323', pronounced that ***liability of Railway is strict or no fault liable***. Railway Compensation Law is made for the welfare as well as beneficial to the victims, hence if respondent wants to take the benefit regarding the death of the deceased as self-inflicting injury, etc., it must be proved with cogent evidence. Because criminal act requires *actus reus* with *mens rea* which is neither proved by the Respondent nor any such evidence is available in the support of Respondent. Therefore, it is proved from evidence that at the time of incident, deceased was a bonafide passenger during journey and he became a victim of 'untoward incident' in the Railway premises and died due to injuries sustained in the incident. 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?*

15. Originally this OA is filed by children (Son and daughters) of the deceased. To prove their relationship with the deceased, Applicants have filed Family Member Certificate (Ex.A5) issued by Tahsildar of Rudravaram Mandal. They have also produced copies of Aadhaar cards of Applicant Nos.1 to 5 (Ex.A.8 to Ex.A.12). There is no objection from respondent side about inter-se relationship of the Applicants and their relation with the deceased. Further, the Respondent has not seriously disputed the issue and the Applicants being the children 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?

16. 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 incident occurred on 15.07.2015, 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 i.e. Rs.4,00,000/- 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.

17. As a result, the case of Applicants is liable to be allowed.

ORDER

Claim is **allowed** without costs.

18. 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.3,00,000/- (Rupees Three Lakhs only) is awarded to Applicant No.1 (Son of the deceased). Out of said amount, a sum of Rs.30,000/- (Rupees Thirty Thousand only) shall be released in his favour through ECS and remaining amount Rs.2,70,000/- (Rupees Two Lakhs Seventy Thousand only) shall be kept in 27

fixed deposits of Rs.10,000/- each for the period of one month to 27 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 his residence

- (ii) A sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) each is awarded to Applicant Nos.2, 3, 4, and 5 (Daughters of the deceased). Out of said amount, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each shall be released in their favour through ECS and remaining amount Rs.1,00,000/- (Rupees One Lakh only) each shall be kept in 20 fixed deposits of Rs.5,000/- each for the period of one month to 20 months, with cumulative interest. The maturity amounts of the FDR(s) be credited through ECS in the respective savings bank accounts of the Applicant Nos. 2, 3, 4, and 5 near the place of their residence .
- (iii) Respondent is directed to pay the total amount within 60 days from the date of receipt of this order, 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 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.

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

20. 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.

Consent 15/4/24
(G. John Prasad)
 Technical Member

R. Sathya
 15/4/24
(R. Sathyabama)
 Judicial Member

APPENDIX**WITNESSES EXAMINED FOR APPLICANT:**

- | | | | |
|----|------|---|-------------|
| 1) | AW.1 | - | P. Jayanna |
| 2) | AW.2 | - | P. Obulamma |

DOCUMENTS MARKED FOR APPLICANT:

- | | | | |
|-----|----------|---|---|
| 1) | Ext.A.1 | - | Attested copy of train 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 |
| 5) | Ext.A.5 | - | Original Family Member Certificate |
| 6) | Ext.A.6 | - | Death Certificate of the deceased |
| 7) | Ext.A.7 | - | Photocopy of Aadhaar Card of the 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 |
| 10) | Ext.A.10 | - | Photocopy of Aadhaar Card of Applicant No.3 |
| 11) | Ext.A.11 | - | Photocopy of Aadhaar Card of Applicant No.4 |
| 12) | Ext.A.12 | - | Photocopy of Aadhaar Card of Applicant No.5 |
| 13) | Ext.A.13 | - | Attested copy of proceedings of Mandal
Executive Magistrate, Nandyal |

WITNESSES EXAMINED FOR RESPONDENT:

- | | | | |
|----|------|---|-----------------------------|
| 1) | RW.1 | - | K. Pandu, Loco Pilot, Dhone |
|----|------|---|-----------------------------|

DOCUMENTS MARKED FOR RESPONDENT:

- | | | | |
|----|---------|---|--------------------------------------|
| 2) | Ext.R.1 | - | Divisional Railway Manager's Report. |
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G. John Prasad
(G. John Prasad)
 Technical Member

R. Sathyabama
(R. Sathyabama)
 Judicial Member