

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

**Hon'ble Ms. R. Sathyabama, Member (Judicial)/RCT/Nagpur Bench
on Circuit Bench at RCT/Amaravathi Bench at Guntur**

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Date of filing : 28.09.2015

Date of decision : 20.11.2023

1. K. Lakshmma, W/o. Late K. Chinna Venkatareddy,
aged about 65 years, Occ: Housewife
2. K. Gopal Reddy, S/o. Late K. Chinna Venkatareddy,
aged about 50 years, Occ: Agriculture Coolie
3. Ch. Rajeswari, W/o. Ch. Obulareddy,
aged about 40 years, Occ: Housewife.
4. K. Rami Reddy, S/o. Late K. Chinna Venkatareddy,
aged about 37 years, Occ: Agriculture
5. Ch. Krishnaveni, W/o. Ch. Obulareddy,
aged about 37 years, Occ: Housewife
6. K. Ramakrishnareddy, S/o. Late K. Chinna Venkatareddy,
aged about 34 years, Occ: Agriculture

All are R/o. H.No.12-68, Mohiddinpuram Village, Gogula Post,
Ardhaveedu Mandal, Prakasam District.

... 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.S.Geetha Madhuri	-	Ld. Counsel for Applicants.
Shri N. Vara Prasad	-	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 Late K. Chinna Venkata Reddy (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 23.07.2015.

2. It is pleaded in the OA that the deceased, a resident of Mohiddinpuram Village, Ardhaveedu Mandal, Prakasam District was an agriculturist by occupation and by informing family members he went to attend Godavari Purshkara Holy bath at Bhadrachalam along with his friend Mr. Mahanandi on 21.07.2015. With a view to return, they two reached Vijayawada Railway Station from Bhadrachalam in the early morning hours of 23.07.2015, purchased two individual passenger train Journey tickets from Vijayawada to Cumbum and boarded in general compartment of Train No.56501 Vijayawada – Hubli passenger and settled at different seats as there was a heavy rush of passengers in the compartment. Deceased informed about his journey to his wife, sons and daughter. During journey hour, as there was a heavy rush of passengers, the deceased suddenly slipped and fell down from running train in between Narasaraopet and Manumaka Railway Stations at Km.No.45/7 due to speed, jolts and sudden jerks of the train, as a result, he sustained seyre head injury along with multiple fatal injuries and died on spot in the morning hours of 23.07.2015. On arrival at Cumbum station, friend of the deceased and fellow passenger Mr.Mahanandi unknown of the incident waited for the deceased on the platform and returned home in confusion state. Applicants are wife, two daughters and three sons of the deceased. Being dependents of the deceased, they filed this claim application.

3. Respondent Railway has filed written statement, denied its liability and further submitted that there is no cause of action for applicants as the claim does not fall within the ambit of Section 123(C) or Section 124-A of Railways Act, 1989. Respondent citing DRM enquiry report submitted that Guard as well as Driver of the train have not noticed anybody falling down from the train and mere finding of dead body near the track by Keyman does not construe that the deceased travelled by train and died in an untoward incident. It is contended by Respondent that there is no eye witness to the alleged incident and it would have

caused due to conduct and criminal act of the deceased and such act of self-inflicting injuries would disentitle the applicants to claim any compensation from Railways. It is also submitted by Respondent that the deceased was not a bonafide passenger of Train No.56501 on 23.07.2015 because applicants have not produced the journey ticket and no journey ticket was recovered from the dead body of the deceased during inquest. 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.6 (Son of the deceased) filed his affidavit as examination-in-chief as AW.1 and to prove the following documents, which are marked and exhibited as under:-

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|---|---|-----------|
| 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) Original Family Members Certificate | - | Ext.A.5. |
| 6) Photocopy of Aadhaar Card of Deceased | - | Ext.A.6. |
| 7) Photocopy of Aadhaar Card of Applicant No.1 | - | Ext.A.7. |
| 8) Photocopy of Aadhaar Card of Applicant No.2 | - | Ext.A.8. |
| 9) Photocopy of Aadhaar Card of Applicant No.3 | - | Ext.A.9. |
| 10) Photocopy of Aadhaar Card of Applicant No.5 | - | Ext.A.10. |
| 11) Photocopy of Aadhaar Card of Applicant No.6 | - | Ext.A.11. |
| 12) Original death Certificate of G.Mananandi | - | Ext.A.12. |
| 13) Original CD File | - | Ext.A.13. |

In his deposition, AW.1 stated that Applicant No.1 is his mother, Applicant Nos.2 & 4 are his elder brothers and Applicant Nos.3 & 5 are his elder sisters. He was not an eye witness to the incident. By informing him and other family members, his father went to Bhadrachalam on 21.07.2015 along with one Mr.G. Mahanandi, attended Godavari Pushkara Holy Bath and commenced return journey by train from Vijayawada in the early hours of 23.07.2015 by boarding Train No.56501 Vijayawada – Hubli Passenger after purchasing two individual

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train journey tickets and informed about his journey to him and his mother by phone at about 07:00 hrs. During journey hour, as there was heavy rush of passengers in the compartment, his father slipped and fell down accidentally from running train in between Narasaraopet and Manumaka Railway stations due to speed, jolts and sudden jerks of the running train, as a result, his father sustained severe head injury, other multiple fatal injuries and died on the spot in the morning hours of 23.07.2015. The place of occurrence is about 3 hours journey from their place. He deposed that unknown of his father's whereabouts, he along with his brothers and sisters made enquiries with Railway police Vijayawada, Guntur and Narasaraopet by showing photographs of their father. They came to know about the incident from Railway police, Narasaraopet and learnt that Panchanama and inquest were conducted on same day and dead body was buried before they could reach. Journey ticket was not recovered from the possession of his deceased father since it might have been lost during incident as his clothes were badly torn or during shifting of his body from place of incident to Mortuary room of Area Hospital, Narasaraopet. He further deposed that Mr.G.Mahanandi, friend and co-passenger of his father attended the obsequies and informed them about their journey from Vijayawada. They could not produce Mr.G. Mahanandi as a witness as he died on 06.06.2017 and his death certificate is produced and marked as Ext.A12.

As per the request of the learned Applicants' Counsel, the Investigation Officer in this case A.Navaraju, Asst. Sub-Inspector, Narasaraopet Rural PS was examined as AW.2. He deposed that at the time of incident on 23.07.2015, he has been working as Head Constable at GRP Police Station Narasaraopet. Keyman was the first to find the dead body and at the time of inquest dead body was unidentified. He conducted the inquest at GGH/Narasaraopet on 25.07.2015 and prepared inquest report by observing the scene of occurrence. Post mortem was also conducted on 25.07.2015 and none of the family members of the

deceased were present on 25.07.2015. During inquest neither journey ticket nor other belongings were recovered from the body of the deceased. In response to the advertisement they have given in newspaper on 24.07.2015 about death of unidentified person, family members of the deceased approached them on 26.07.2015 and identified the body of the deceased. The family members of the deceased have stated that the deceased was travelling by Hubli Express. At column No.20 of inquest report, he mentioned that there were dragging marks made by train on the body of the deceased and as per his observations, the body was dragged for a distance of about 7 sleepers.

6. Counsel for Applicants has cited four case laws which are mentioned below:-

- i) Kamukayi & Ors vs. Union of India & Ors in CMA No.3799/2023 decided on 16.05.2023 by Hon'ble Supreme Court of India.
- ii) Union of India vs. A.Geetha & Ors. in MFA No.30/2010 decided on 24.05.2017 by Hon'ble High Court of Kerala at Ernakulam.
- iii) Civil Miscellaneous Appeal No.862/2017 by Hon'ble High Court of Telangana State.

7. Respondent has examined K.Narasimha Rao, Guard of the Train and Ch.Nageswara Rao, Rtd. Sub-Inspector, RPF as RW-1 and RW-2 respectively. As a documentary proof, Respondent filed DRM Report which is marked as Ext.R.1. RW-1 stated that on 23.07.2015, the day of incident, he was discharging his duties by Train No.56501 Passenger as Passenger Guard and his train started from Guntur at 09:00 hrs, reached Narasaraopet at 10:19 hrs and from there to Manumaka by 10:36 hrs. It is 10 Kms distance from Narasaraopet to Manumaka and running time is 8 minutes depending upon requirements. He further stated that during his run in Narasaraopet and Manumaka section, no unusual or abnormality like jerks/jolts were brought to his notice. Neither ACP attempted nor has he seen any passenger falling down from train.

RW-2 stated that while he was working as Asst. Sub-Inspector, RPF, Narasaraopet, on 23.07.2015, at about 14:40 am, on receipt of message from Station Superintendent that on duty Keyman found dead body of unknown male person aged 60 years seems to be run over by an unknown train, he along with A.Nava Raju, HC/902 and R.H. Singh, PC-868 of GRP, Narasaraopet attended the spot, conducted physical verification of dead body and except clothes, no personal belongings were found in and around place of incident. He was not present during inquest, hence; he was not aware where it was conducted. Since this is an old case, he could not remember whether body was dragged or not.

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?*

Bonafide Status:

9. As per claimants, deceased K. Chinna Venkata Reddy, on 23.07.2015 was returning home from Vijayawada Railway station by train 56501 Vijayawada – Hubli Passenger after attending Pushkara Holy bath at Bhadrachalam along with his friend Mr. Mahanandi. Both of them purchased 2 individual passenger train journey tickets, boarded the above train and settled at different places in the compartment owing to rush of passengers. During journey, suddenly the deceased slipped and fell down from running train due to speed, jolts and sudden jerks of the train at Km.No.45/7 in between Narasaraopet and Manumaka Railway stations, sustained severe head injury and multiple fatal injuries and succumbed to injuries on spot. Due to severe multiple injuries and clothes of the deceased were badly torn during the incident, his journey ticket was lost. According to applicants, because of deceased was travelling with a valid journey ticket and incident happened during journey hour due to accidental fall from

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running train and ticket was lost, hence, he was a bonafide passenger at the time of incident. Respondent railway refuted the applicants' claim stating that because of none is the eye witness of the incident and even journey ticket is not found with the deceased, hence, he was not a bonafide passenger.

To conclude the bonafide status of the deceased, from perusal of case file, it is observed that no journey ticket is found with the deceased. Inquest report is also available with case file in which nothing is mentioned about journey ticket. As per claimants, journey ticket was lost during the incident. In support of their claim, Applicant No.6 has been examined himself as AW-1 by filing an affidavit and during his cross examination he deposed that his father called him in the morning hours of 23.04.2015 and informed that he had purchased train journey ticket to travel by Hubli Passenger. AW-2, the Investigating Officer in this case has also stated during his cross examination that the family members of the deceased had stated that the deceased was travelling by Hubli Express.

So far as the availability of journey ticket is concerned, the burden is incumbent to the claimants to prove that deceased was holding a valid journey ticket. The applicants have discharged their burden through the deposition of AW-1 stating that his father had purchased a journey ticket before commencing journey and informed about the same through phone. Now onus is shifted to Respondent Railway which is neither discharged nor contradicted. It is pertinent to mention the pronouncement given by Hon'ble Supreme Court in **Union of India Vs Rina Devi** decided on 9th May, 2018 (SC) in which para No.17.4 states that

'We thus hold that mere presence of the body on the Railway premises will not be conclusive to hold that injured or deceased was a bonafide passenger for which claim for compensation could be maintained. However, mere absence of the ticket with such injured or deceased will not negate the claim that he was a bonafide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden then will be

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shifted on Railway and issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly'.

From perusal of inquest report and post mortem certificate, it is further observed that the injuries found on the body of the deceased were broken injury on back side of the head, cut injury at shoulder, cut injury on right knee, abrasion injury at left elbow and press injury on face. As per the Investigating officer AW.2, the body was dragged for a distance of about 7 sleepers. Taking into consideration, the injuries sustained and drag of the body by train, it can be construed that the train journey ticket might have been lost in all probability during the incident. Hence, the burden of proof shifted on to Respondent Railway could not be discharged. Because of death of the deceased occurred during journey hour and his body is found within the Railway premises at Km.No.45/7 in between Narasaraopet and Manumaka and it is probable that journey ticket could be lost, thus, it is proved that at the time of incident, deceased was travelling with a valid journey ticket and he was a bonafide passenger.

Untoward incident:

10. So far as the untoward incident is concerned, as per claimants the incident happened during journey hours and deceased died due to accidental fall from a running train being a bonafide passenger, death of the deceased is covered under the provision of Sec.123(c)(2) as well as Section 124-A of Railway Act. Therefore, applicants are entitled to get claim regarding death of the deceased. Per Contra, Respondent refuted and stated that deceased was neither a bonafide passenger at the time of incident nor his death was due to accidental fall from train and further submitted that mere finding of dead body near track by keyman does not construe that the deceased travelled by train and died in an

untoward incident. Hence the incident is not covered within the purview of untoward incident.

11. From perusal of case file it is observed that the dead body of the deceased was first seen by Ch. Venkateswarlu, Keyman on 23.07.2015 at about 14:15 hrs at Km.No.45/7 between Narasaraopeta and Manumaka Railway stations and the same was informed to on duty Station Master, Narasaraopeta. On getting information from Station Master, Narasaraopeta about presence of dead body in Railway premises, RW-2 attended the spot along with AW-2, the investigating officer. AW-2 conducted the inquest based on the observations made at scene of occurrence and according to his observation the body of the deceased was dragged by train for about seven sleepers after fall from the running train as mentioned at Col.No.9 of Inquest Report as well as during deposition of AW-2. The material available on file and keeping in view the facts and circumstances of the case, it is proved that death of the deceased occurred due to accidental fall from a running train and nothing else.

12. To contradict the case of Applicants, Respondent has stated that death of the deceased is due to criminal act and self-inflicting injuries, But, in support of their arguments neither any cogent oral evidence is available nor any formal evidence is available with respondent. The Hon'ble Supreme Court in the case of **Union of India Vs. Prabhakaran Vijaya Kumar & others** in which it is held that Section 124A lays down the principles of strict liability or no fault liability in case of Railway accidents. Hence, if a case comes within the purview of Section 124A it is wholly irrelevant as to who was at fault and the same has been reiterated in the case of **Union of India vs Rina Devi**. It is further to say that Railway Compensation Law is a welfare legislation made for the welfare as well as for the benefit of the victims/deceased. Therefore, minor discrepancies, if any, has no importance.

13. In view of the above discussion, we hold that the deceased was a bonafide passenger at the time of incident and died during journey hour due to accidental fall from running train which is an untoward incident as defined under Section 123(c) of the Railways Act. Hence, this issue is answered in favour of the applicants and against the respondent.

Issue No.2: *Whether the Applicant(s) is/are dependant(s) of the deceased?*

14. Originally this OA is filed by wife and children (two daughters and three sons) of the deceased. To prove their relationship with the deceased, they have filed Family Member Certificate issued by Revenue Authorities of Ardhavedu Mandal. Further they have produced copies of Aadhaar cards of Applicant Nos.1, 2, 3, 5 & 6. There is no objection from respondent side about inter-se relationship of the Applicants and their relation 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?*

15. 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 23.07.2015, 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 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.

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

ORDER

17. The Respondent is directed to pay the Applicants a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) within 60 days from that date of this order. Applicants are wife, two daughters and three sons of the deceased. Hence, ratio of compensation amount is being disbursed in the following manner.

- (i) A sum of Rs.3,00,000/- (Rupees Three Lakhs only) is awarded to Applicant No.1 (Wife of the deceased). Out of said amount, a sum of Rs.30,000/- (Rupees Thirty Thousand only) which is 10% of her apportioned amount, shall be released in her 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 by ECS in the savings bank accounts 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 to 6 (two daughters and three sons of the deceased). Out of said amount, a sum of Rs.10,000/- (Rupees Ten Thousand only) each shall be released in their favour through ECS and remaining amount 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 through ECS in the respective savings bank accounts of the Applicant Nos.2 to 6 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.
18. In the facts and circumstances of the case, there is no order as to costs.
19. 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.

R.S. 20/11/23
(R. SATHYABAMA)
Member (Judicial)
RCT/Nagpur
on Circuit Bench

APPENDIX

WITNESSES EXAMINED FOR APPLICANT:

- 1) AW.1 - K. Ramakrishna Reddy
- 2) AW.2 - A. Navaraju, ASI, Narasaraopet Rural

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 - Original Family Members Certificate
- 6) Ext.A-6 - Photocopy of Aadhaar Card of Deceased
- 7) Ext.A-7 - Photocopy of Aadhaar Card of Applicant No.1
- 8) Ext.A-8 - Photocopy of Aadhaar Card of Applicant No.2
- 9) Ext.A-9 - Photocopy of Aadhaar Card of Applicant No.3
- 10) Ext.A-10 - Photocopy of Aadhaar Card of Applicant No.5
- 11) Ext.A-11 - Photocopy of Aadhaar Card of Applicant No.6
- 12) Ext.A-12 - Original death Certificate of G.Mananandi
- 13) Ext.A-13 - Original CD File

WITNESSES EXAMINED FOR RESPONDENT:

- 1) RW.1 - K. Narasimha Rao, Mail/Express Guard, Guntakal
- 2) RW.2 - Ch. Nageswarara Rao, Rtd. SI/RPF, Guntur

DOCUMENTS MARKED FOR RESPONDENT:

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

R.S. 20/11/23
(R. SATHYABAMA)
Member (Judicial)
RCT/Nagpur
on Circuit Bench