

**RAILWAY CLAIMS TRIBUNAL
AMARAVATI BENCH, GUNTUR**

CORAM

Gyan Prakash Tewari - Hon'ble Member Judicial
G. John Prasad - Hon'ble Member Technical

OA II (u) 360/2015

Date of filing : 13.11.2015
Date of decision : 19.10.2023.

1. K. Ramu, W/o. Late K. Simhadri,
Aged about 42 years, Occ: Housewife
2. K. Bharathi, D/o. Late K. Simhadri,
Aged about 19 years, Occ: Student
3. K. Satish, S/o. Late K. Simhadri,
Aged about 15 years, Occ: Student
(Applicant No.3 being minor rep. by his mother,
natural guardian and Applicant No.1

All are R/o.D.No.4-1645, Gowthami Nagar,
D-Block, Hukumpet Panchayat, Rajahmundry Rural,
East Godavari District, Pin - 533 107.

Applicants

Versus:

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

Respondent

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

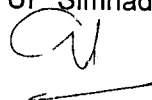
Shri N. S. Geetha Madhuri - Ld. Counsel for Applicants.
Shri M. Adilakshmi - Ld. Counsel for Respondent.

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 'K. Simhadri' (hereinafter referred to as "the deceased") who allegedly died in an untoward incident of accidental fall from the train carrying passengers that occurred on 02.09.2015.

2. It is pleaded in the OA that the deceased K. Simhadri a resident of Hukumpeta village, Rajahmundry was a Coolie by occupation. With a view to go to Chagallu to attend collie works, the deceased along with his fellow collies and friends viz. Randi Durga, G. Sivanaga Durga Reddy and G. Rajareddy went to Godavari station in the morning hours of 02.09.2015, the deceased K. Simhadri purchased a group passenger train journey ticket bearing No.A-17366162 from Godavari to Chagallu for four of them and they all boarded Train No.57258 Kakinada – Tirupati passenger in general compartment and left. When the train reached Kovvur Railway station on platform No.2, the deceased got down from train, drank water at Water tap provided in between platforms 2 & 3 and out of confusion and hurry before his train could start, he boarded another train (Train No.17240 Visakhapatnam – Guntur Simhadri express) which was placed on platform No.3 instead Train No.57258 Kakinada – Tirupati passenger. During journey, when he tried to go inside the compartment of the said train through heavy rush of passengers, suddenly he slipped and fell down accidentally from running train in between platform and train due to sudden jerks of the train leaving the platform of Kovvur station, as a result, he sustained severe multiple severe injuries. The train was stopped by Alarm Chin pulling, the Guard, eye witness and concerned Railway station staff rushed to spot and 108 ambulance was called immediately. 108 Ambulance staff have examined the injured and declared him dead as a result of injuries sustained during incident. Applicants are Wife and children of the deceased. Being dependents of the deceased, they have filed this claim application.

3. Respondent Railway has filed written statement and 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 report submitted that Guard of the Train No.17240 stated that the deceased had fallen from Train No.17240 UP Simhadri Express



and incident had taken place while the train was moving out of Kovvur Railway station after a brief halt and there were no jerks/jolts in the said running train between Rajahmundry and Vijayawada Railway Stations. Respondent contended that the deceased had fallen down from Train No.17240 Up Simhadri Express and the ticket found in possession of the deceased was from Godavari to Chagallu stations which is meant for passenger train and not express train, therefore, the deceased could not be treated as bonafide passenger. Respondent further submitted that the incident had happened due to negligence and carelessness of the deceased which could not be treated as a case of untoward incident and it is a suspicious death which would disentitle the applicants to claim compensation. Hence, this case is not fit for the compensation and liable to be dismissed.

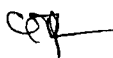
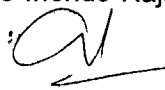
4. From the pleadings, following issues were framed on 19.04.2017:

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 proved documents, which are marked and exhibited as under:-

- | | | |
|--|---|----------|
| 1) Original Train journey ticket | - | Ext.A.1. |
| 2) Attested copy of FIR | - | Ext.A.2. |
| 3) Attested copy of Inquest Report | - | Ext.A.3. |
| 4) Attested copy of PME Report | - | Ext.A.4. |
| 5) Original Death Certificate of the deceased | - | Ext.A.5. |
| 6) Original Family Members Certificate | - | 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 Ration Card | - | Ext.A.10 |

In her deposition, Applicant No.1 as AW.1 stated that she was not an eye witness to the incident, neither she could tell about the date and timings of the incident being an illiterate. On the date of incident, with a view to go to Chagallu, her husband accompanied by other three fellow coolie friends Raja Reddy, Siva

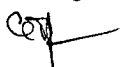
Prasad and Ranga Reddy went to Godavari Railway station and her husband purchased a passenger train journey group ticket from Godavati to Chagallu for 4 of them and they all boarded in Kakinada – Tirupati Passenger. When the train stopped at Kovvur station on Platform No.2, her husband got down from train to fetch drinking water at Water tap provided in between platform Nos.2 & 3, after fetching water, he wrongly boarded another train i.e. Simhadri Express which was placed on Platform No.3 out of confusion and hurry and while trying to go inside the compartment through heavy rush of passengers, her husband suddenly slipped and fell down accidentally from Simhadri Express between platform and train at Kovvur Station, as a result, he sustained severe multiple injuries. Guard of the concerned train and railway officials called 108 Ambulance and her husband was declared dead by 108 Ambulance staff after examination. She came to know about the incident from Mr. Siva Prasad who informed her over mobile phone. She further deposed that she was present during inquest and group journey ticket was given to them by police. During her cross examination, she reiterated the averments made in the claim application and she denied the suggestion of counsel for Respondent that her husband had not purchased journey ticket for his journey.

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

- i. Civil Misc. Appeal (CMA) No.92 of 2008 – Shaik Mahaboob Basha & Ors. Vs Union of India, in the Hon'ble High Court of Andhra Pradesh & Telangana.
- ii. First Appeal No.113 of 2022 & Ors. – Union of India Vs. Reena in the Hon' ble High Court of Judicature at Bombay Nagpur Bench, Nagpur.

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:-



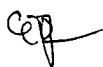

FINDINGS

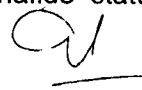
Issue No.1: *Whether the deceased was a bonafide passenger of the Train in question and died as a result of an untoward incident?*

8. Bonafide Status:

As per claimants, on 02.09.2015 the deceased a coolie by profession went to Godavari Railway station in the early hours along with other three fellow coolie friends with a view to go to Chagallu for attending coolie works. The deceased purchased group passenger train journey ticket bearing No.A17366162 for four of them from Godavari to Chagallu and all of them boarded in Train No.57258 Kakinada – Tirupati Passenger. When the train reached Platform No.2 of Kovvur Railway station, the deceased got down from train to fetch drinking water at tap provided in between Platform Nos.2 & 3. After fetching water, out of confusion and hurry, the deceased wrongly boarded another train i.e. Train No.17240 Visakhapatnam – Guntur Simhadri express which was halted on platform No.3 and while trying to get inside the compartment, owing to heavy rush of passengers, the deceased suddenly slipped and fell down accidentally from above running train resulting in sustaining severe multiple injuries and later declared dead by 108 ambulance staff who were called upon by Railway officials concerned. According to claimants, at the time of incident because of the deceased K.Simhadri was travelling holding a valid train journey ticket and died due to accidental fall from passenger train, therefore, he was a bonafide passenger at the time of incident. Respondent Railway has refuted the bonafide status of the deceased in its written statement stating that the deceased was not a bonafide passenger because he wrongly boarded Train No.17240 Simhadri Express and the journey ticket which is in possession of the deceased is from Godavari to Chagallu station meant for passenger train and not for express train.

As per Section 2(29) of Railways Act 'Passenger' means 'a person travelling with a valid pass or ticket'. To prove the bonafide status of the
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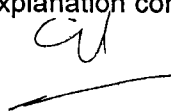


deceased, Applicant No.1 as AW-1 filed her affidavit and deposed that her deceased husband K.Simhadri was travelling with a valid train journey ticket from Godavari to Chagallu because during inquest the original train journey ticket meant for 4 adults to travel from Godavari to Chagallu which was in possession of her deceased husband was handed over to her by Police. Further, in support of claim application, Applicants filed original train journey ticket bearing No.A17366162 II ORDINARY Ticket for 4 adults to travel from Godavari to Chagallu valued Rs.20/-. During DRM statutory enquiry, it was concluded that one ordinary Railway journey ticket No.A-17366162 Ex:Godavari to Chagallu, 04 adults was found with the deceased during inquest conducted by GRP. During enquiry, the genuineness of the ticket was neither disputed nor contradicted. The prime contention of Respondent is that the deceased had wrongly boarded express train holding a ticket meant for passenger train journey. It is expressly admitted by Respondent that the deceased was holding a valid passenger train journey ticket from Godavari to Chagallu. It is apparent that the deceased had no intention to travel by train unauthorisedly without purchasing ticket. He got down from train at Kovvur station to fetch drinking water and wrongly boarded another train which was halted on adjacent platform out of confusion and hurry. As per Section 124-A of Railways Act, Compensation on account of untoward incidents, under 'Explanation', a '**Passenger**' is defined as –

(a) a railway servant on duty : and

(b) 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.

On the date of incident, the deceased was travelling with a valid train journey ticket meant for journey in passenger train but out of hurry and confusion he wrongly boarded another train which is an express train. But that would not make any difference in the eye of law, inasmuch as, the explanation contained in

Section 124-A of Railways Act, clearly contemplates that 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, he is entitled for compensation. In the light of the evidence available in the case file, we thus hold that at the time of incident, the deceased was travelling holding a valid train journey ticket and he was a bonafide passenger.

9. Untoward Incident:

So far as untoward incident is concerned, as per claimants, deceased was travelling from Godavari to Chagallu on 02.09.2015 with a valid train journey ticket and incident happened during the boarding hour of train due to sudden jerks and jolts of the train while leaving the Kovvur station, he suddenly slipped and fell down accidentally from running passenger carrying 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. But Respondent Railway has refuted and countered that death of the deceased is due to his own negligence and carelessness while boarding another train wrongly at Kovvur station for which Railway is not responsible for any compensation.

To conclude as untoward incident, from perusal of case file it is admitted that the deceased had fallen from Train No.17240 Simhadri Express while it was leaving Kovvur station after a brief halt. During statutory enquiry, M.J.V. Prasad, Guard of Train No.17240 Simhadri Express on 02.09.2015 stated that the said train arrived Kovvur station at 11:56 hrs and after starting the train at 11:58 hrs, Loco Pilot stopped the train and reported that one male person had fallen down, he immediately attended the spot and noticed one male person aged about 60 years is lying on the track with severe injuries to his left hand and leg, in addition to calling 108 ambulance he prepared a written memo to on duty Dy.SS/Kovvur. Sheik Ahmmed, Station Master, Kovvur stated that on 02.09.2015 at about 12:10 hrs he received a memo from Guard of Train No.17240 Simhadri Express that

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one male person aged 60 years fallen from the train and lying on the track with injuries to his left leg and left hand. 108 ambulance staff attended the spot on being called by Guard of the train and declared the injured dead and dead body was removed from track and kept beside the Road Nos.4 & 5 by train guard and on duty points man. During enquiry, the deceased was identified as Koripalli Simhadri, aged 50 years, S/o. Kittamma. Post Mortem examination was conducted on 03.09.2015 and in Post Mortem Certificate it was opined by doctor that the cause of death is due to 'Haemorrhagic shock due to train accident'. All these voluminous evidences are interconnected, corroborative and proving the accidental fall of the deceased from train at the place of incident during his journey.

So far as the argument of the Respondent that deceased wrongly boarded express train in which he was not authorized to travel. For that principles laid down by the Hon'ble Bombay High Court, Nagpur Bench decision in First Appeal No.113 of 2022 Union of India Vs. Reena and First Appeal No.114 of 2022 Union of India Vs. Kishore & another decided on 11.11.2022 is available with justified answer. Hon'ble Nagpur Bench of the Bombay High Court in above two appeals has established that boarding in a wrong train and fell down accidentally certainly it is not a criminal act and for above, Railway cannot deny the compensation. Therefore, if it is taken into consideration that deceased entered in a wrong train out of confusion and hurry and injuries occurred due to his own negligence, it is nothing but to deny and escape from liability. Hence, it is held that such type of negligence and injuries are natural during boarding and deboarding hour. In present case it is proved that in a hurry and confusion state of mind, the deceased boarded in a wrong train. The intention the deceased to travel in train cannot be questioned and beyond doubt. There are also much formal evidence like Inquest, Post-Mortem and genuine journey tickets available with case file. Most of these evidences are admitted by respondent itself. These all prove.

applicants' case. It is pertinent to mention that case law cited above by the Applicant's counsel is also supporting the version of Applicants.

In the facts and circumstances of the present case and the evidence let in by both sides, it has to be inferred that the deceased was a bonafide passenger and he became a victim of an untoward incident as defined under S.123 (c) (2) of the 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?*

10. Originally this OA is filed by wife, unmarried daughter and minor son of the deceased as dependants and family members. To prove their relationship with the deceased, they have filed attested copy of Family Member Certificate issued by Tahsildar, Rajamahendravaram (R). Further they have produced copy of Aadhaar cards of Applicant Nos.1 to 3. 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?*

11. In the light of the findings on Issue Nos.1 & 2, the Applicants being the family members of the deceased are held entitled for the compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) from Respondent. Since the deceased died on 02.09.2015, 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 OA II (u) 360 of 2015

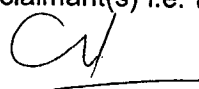
Rs.8,00,000/- (Rupees Eight Lakhs only) which is the higher amount. At the time of filing this claim application, Applicant No.3 K. Satish, Son of the deceased was minor and now he has attained the age of majority; hence, amount of compensation is being apportioned to him also.

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

ORDER

13. The Respondent is directed to pay the Applicants a sum of Rs.8,00,000/- (Rupees Eight Lakhs only). 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.1,00,000/- (Rupees One Lakh only) each is awarded to Applicant Nos.2 & 3 (Unmarried daughter and son 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) each 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 & 3 near the place of their residence.
- (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

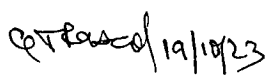



bank account(s) of the claimant(s) shall be an individual savings bank account(s) and not a joint account(s).

- (v) The applicant(s) shall furnish details and documents 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.

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

15. 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.


(G. John Prasad)
Technical Member


(Gyan Prakash Tewari)
Judicial Member

APPENDIXWITNESSES EXAMINED FOR APPLICANT:

- 1) AW.1 - K. Ramu

DOCUMENTS MARKED FOR APPLICANTS:

- 1) Ext.A-1 - Original 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 Report
- 5) Ext.A-5 - Original Death Certificate of the deceased
- 6) Ext.A-6 - Original Family Members Certificate
- 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 Ration Card

WITNESSES EXAMINED FOR RESPONDENT:

NIL

DOCUMENTS MARKED FOR RESPONDENT:

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

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

Gyan Prakash Tewari
(Gyan Prakash Tewari)
Judicial Member