

RAILWAY CLAIMS TRIBUNAL, BHUBANESWAR

Case No. OA(IIU)/63/2021

Coram: Syed Nishat Ali, Hon'ble Member (Technical), RCT/Nagpur at
RCT/BBS

Date of incident: 28/02/2017

Date of claim registered after delay condoned : 13/04/2021

Date of Judgment: 19/11/2025

Claimed Amount: Rs. 8,00,000/-

In the matter of

1.Manjuli Majhi aged about 35 years

W/o late Gurudev Majhi

2.Sapana Majhi aged about 13 years

D/o late Gurudev Majhi

3.Manisha Majhi aged about 10 years

D/o late Gurudev Majhi

4.Chulbuli Majhi aged about 8 years

D/o late Gurudev Majhi

(Applicant No.2, 3 & 4 being minors are
Represented through their natural mother
Guardian i.e. Applicant No.1)

Resident of village: Dangan Kana,
Chatrapur, PS: Lanjigarh, Distt: Kalhandi,
Odisha

-Versus-

Union of India represented through
Its General Manager, Southern Railway,
Chennai

Applicants

Respondent

Appearance:

For the Applicants: Sri S.C.Mohanty, Advocate (joined through hybrid mode)

For the Respondent: Smt.S.L.Pattnaik, Ld. Standing Counsel (joined through
hybrid mode)

J U D G E M E N T

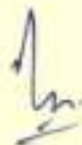
1. This present claim application has been filed by the Applicants (wife and children of the deceased), under section 16 of the Railway Claims Tribunal Act, 1987, claiming compensation of Rs.8,00,000/- (Rupees Eight Lakhs) along with bank interest from the Respondent Southern Railway on account of death of Gurudev Majhi, husband of Applicant No.1, allegedly in an untoward incident involving fall from a running train.

2. The Applicants at Sl. No.6 (b) of their original claim petition pleaded as under:-

"..... The deceased Gurudev Majhi was a very poor tribal person of Kalahandi district of Odisha for his livelihood he along with other people of his village usually go to out of state to work as Dadan labour. On 27.2.17, the deceased along with other people of his village was travelling with the labour contractor from Vijayanagaram to Chennai by 22642 Tirubhantapuram Central S.F express as a bonafide passenger having valid journey ticket from Vijayanagaram to Chennai. They boarded the train at Vijayanagaram at about 1.00P.M of 27.2.17, and on the next day night he accidentally fell down from the running train at km No-6-13A to 6/15, in between loco works R/S and garage works Railway station on 28.2.17, and died at the spot. The GRPS Perambur Registered a Cr Case No-21/17, U/S 174 CRPC in connection with this case. The general class SF ticket valid from Vijayanagaram to Chennai has been lost due to accident,..." (Reproduced as verbatim).

3. On receipt of notice, the Respondent Railway submitted written statement along with statutory DRM's investigation report. In their preliminary objection in the written statement, they have averred as under:-

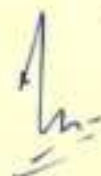
"..... The Respondent denies all the averments and allegations in the application except those that are specifically admitted herein and put the applicant to strict proof of the same. The Respondent submits that the contents in Para. 1 to 5 of the application are within the knowledge of the Applicant and the Applicant is put to strict proof of the same. The Respondent denies that the victim Shri. Gurudev Majhi aged 36 years died due to accidental fall from Train No.22642 on 28.2.2017 between Perambur Loco Works and Perambur Carriage Works Railways Stations. The Respondent submits that the DRM Report reveals that the Incident came to light when Sri. A.K. Ramakrishnan, Motor Man of EMU No.43666 (Ex-Avadi to Velachery) informed Sri. D. Selvaraj, Station Master, Perambur through Walkie Talkie that one male aged 35 years was found lying at KM.06/13A-6/15A between Perambur Carriage Works and Perambur Loco Works Railway Station. Station Master/Perambur informed the same to Government Railway Police/Perambur and Inspector of Railway Police/Perambur Government Railway Police/Perambur immediately arrived at the spot and noticed that t body was away from UP fast line. Inquest was conducted on the body. During Inquest Inspector of Railway Police/Perambur was also present. The dead body could not have identified and no train ticket or pass was found on or near the body of the deceased. He the deceased is not a bonafide passenger. The Respondent submits that the Inquest Report and Final Report reveals that



28.02.2017 prior to 14.45 hours the deceased while walking along the Railway Track Fast line) in a careless and negligent manner was hit by an Express train between Perambur Loco Works and Perambur Carriage Works Station at KM.6/13A-6/15A and he was thrown on the cement slabs stacked near the track and succumbed to severe head injury and right arm broken. The Post Mortem Certificate also reveals that the cause of death of victim is "Head Injury". Hence it is evident that the Incident is not covered under untoward Incident. The Respondent submits that in the original application the applicant has stated that the deceased travelled in Train No.22642, Trivandrum Super-Fast Express when the Incident happened. The Respondent does not accept the averments of the applicant. As per DRM Report Train No.22642 left Madras Central Station on 28.02.2017 at 04.05 hrs, and passed Perambur Carriage Works at 04.15 hrs. But the body of the deceased was found on 28.02.2017 at 13.30 hours only. It is highly unlikely that the body was not noticed by any of the Loco Pilot/Guards or others who passed the location during the time from 04.15 hours to 13.30 hrs. of 28.02.2017. The Respondent submits that as per the DRM Report the deceased is not a bonafide passenger and it is a case of run-over by an unknown Chennai bound express train between Perambur Loco Works and Perambur Carriage Works Station at KM.6/13A-6/15A on 28.02.2017 at about 13.30 hrs. and succumbed to severe head injuries. The Respondent submits that the deceased is not a bonafide passenger as no ticket was found in the body of the deceased. Moreover, there is no evidence to prove that the deceased travelled by Train No.22642. From the DRM's Report it is clearly evident that it is a case of run-over by unknown train. It is possible only if the deceased trespassed the Railway track. 'Trespass' is a punishable offence as per Section 147 of the Railways Act, 1989. Hence the Respondent is not liable to pay compensation to the Applicant.... (Reproduced as verbatim).

4. **ISSUES:** Based on the pleadings of the parties following issues were framed for adjudication.

1. Whether the death of deceased was due to any untoward incident as defined u/s 123(C) of Railways Act 1989?
2. Whether the deceased was travelling as a bona fide passenger of the train at the time of occurrence of the untoward incident?
3. Whether the applicant entitled to get compensation u/s 124 A of Railways Act, 1989?
4. Whether the applicants are the dependents of the deceased to receive the compensation as claimed?
5. To what relief the applicant is entitled to?



5. In this connection the Applicant No.1 (wife of the deceased) has filed affidavit in evidence and examined herself before the bench as AW 1. In the affidavit in evidence, AW 1 stated as under :

"..... That I am the applicant as well as the deponent of this affidavit. That I am the legal married wife of the deceased Gurudev Majhi who died by falling down from the running train. That I am the sole applicant in this case as my in laws are already dead and I have no children. That my deceased husband was working as a Dan labour at Chennai. on dated 27.2.17 my deceased husband with other people of our village was travelling from Vijayanagaram to Chennai with the labour contractor by 22642 Tirubhantapuram central S.F express train as a bonafide passenger having valid journey ticket from Vijayanagaram to Chennai. That on the way he accidentally fell down from the running train at km no-6-13 A to 6-15 in between loco works and R/S and Garage Works Railway station on 28.2.23, at about 4 A.M. and died at the spot. That his body was detected by the GRP Perambur at about 1 P.M of the same day and sent for P.M exam- That the aadhar card of my deceased husband was detected from his pocket and the GRP informed to the family member about the incident." (Reproduced as verbatim)

6. Apart from the affidavit in evidence, AW 1, during cross examination has stated as under :-

".....My name is Smt. Manjuli Majhi, aged about 35 years, W/o- Late Gurudev Majhi, of Village- Tangankala, Chatrapur, P.S-Lanjigarh, Dist.- Kalahandi. I have come here to give evidence in connection with the death of my husband namely Gurudev Majhi. My husband used to work in Chennai I cannot say under whom he was working. He was travelling to Chennai along with other co-villagers for labour work in the year 2014. I have no direct knowledge about the incident. I cannot say the name of train in which he was travelling. The incident occurred at about 12:00 hrs. My husband was standing nearby train as I am heard from others and he fell down. I was informed by the police about the incident. I have not seen the dead body of my husband since the dead body was not brought to my house. My parents in law are pre deceased. I have no children's. I am the only sole survivor of my husband. But I have not obtained the legal heir certificate from the concerned authority. The co-villagers have not informed me about the incident even after reaching village they did not informed me about the incident. It is not a fact that I am deposing falsehood for getting compensation amount from the railway authority." (Reproduced as verbatim)

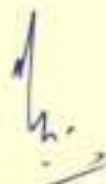


7. The Respondent Railway after completion of the investigation of the alleged case, has submitted DRM investigation report. The conclusion drawn in the DRM's report is as under is as under: -

".....The deceased by name Sri.Gurudev Majhi, aged about 36 years was not having any rail journey ticket or railway travelling authority in his possession. During the inquest held by GRP/PER, no ticket had been found on or near the body of the deceased and the same was also corroborated by the statement of Sri.A.Rajendran, Head Constable/VLK who had attended the spot on the fatal day after getting the information in this regard. Besides, there is no other document or statement to establish that the deceased was in possession of ticket. Thus, it is clear that the deceased is not a bonafide railway passenger. Further, it is to be stated that as per Inquest report, on 28.02.2017 prior to 14.45 hrs, the deceased while crossing the Up fast line in a negligent manner was run over by an Express train and was thrown on cement slabs stacked near the track between Perambur Loco works and Perambur Carriage Works station at KM. 6/13A-6/15/A and succumbed to severe injuries on head and other parts of the body. The claim made by the petitioner that the deceased while travelling in Tr.No.22642 Trivandrum Super-Fast Express from Vijayanagaram towards Chennai, had fallen from running train at KM.6/13A-15/A cannot be accepted due to the fact that the Tr.No.22642 ex.SHM-TVC, which left MAS station on 28.02.2017 at 04.05 hrs had passed Perambur Carriage Works at 04.15 hrs and the body of the deceased was found lying at the location on 28.02.2017 at 13.30 hrs. But, none of the LPs/Guards of the trains that passed the location or others had noticed the body during the time from 04.15 hrs to 13.30 hrs of 28.02.2017. Hence, it made clear that the deceased had not travelled in the said train. However, as per the Inquest report and circumstantial evidences, it appears to be a case of run over by an unknown Chennai bound Express train between Perambur Loco works and Perambur Carriage Works station at KM.6/13A-6/15/A on 28.02.2017 at about 13.30 hours and succumbed to the severe head injuries. Therefore, the claim petition is not maintainable.(Reproduced as verbatim)

8. FINDINGS WITH REASONS: I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of the Applicants as well as Respondent and heard the arguments of both parties through hybrid mode. My findings on the aforesaid issues are as under: -

9 **Issue No.1 & 2:** These two issues are interconnected hence taken up together for discussion and decision: -



10 At the very outset, the Ld. Counsel for the Applicants during argument submitted that it is a case wherein the deceased in course of journey by train no. 22642 Tirubhantapuram Central S.F express from Vijayanagaram to Chennai, accidentally fell down from the running train at km No-6-13A to 6/15, in between loco works R/S and garage works Railway station on 28.2.17. and died at the spot. He submitted that the deceased was a bona fide passenger and the general class SF ticket valid from Vijayanagaram to Chennai has been lost due to said accident. He further submitted that the incident of fall which leads to death of the deceased has occurred within the railway premises in between loco works R/S and garage works Railway station and the said incident comes within the relevant scope of section 123 (c) (2) of the Railway Act 1989. He submitted that the stand taken by the Respondent that deceased died out of run over while trespassing railway track is not supported by any direct or substantial evidence. He accordingly sought for compensation under section 124 A of the Railway Act.

11. The Ld. Counsel for the Respondent on the other hand submitted that the deceased was not a bona fide passenger and physical verification at the time of inquest no journey ticket was recovered in possession with the deceased. He submitted that AW 1, wife of the deceased is not an eye witness either to the purchase of ticket or boarding and falling down of her deceased husband from running train. It is alleged that the incident of death has occurred while the deceased was trespassing railway track and the incident of death has caused due to own criminal negligence arising out of self-act of the deceased. He further submitted that the incident of death comes within the proviso (a) to (c) of section 124 A of the Railways Act ,1989 for which Respondent railway is no way responsible and not liable to pay compensation.

12. In view of above pleading and counter pleading of both parties, I would like to cite Section 124-A of The Railways Act, 1989 (for short, 'the Act') which entitles a 'passenger' to claim compensation, who has been injured or the dependents of the deceased, who has been killed in an untoward incident as defined under Section 123 (c) of the Act *ibid*. The word 'passenger' has been defined under Section 2(29) of the Act as a person travelling with a valid pass or ticket. As per Section 124 (A) "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. It is only when the fact of the injured or the deceased being a bona fide passenger of the train is established; the question of payment of compensation arises in case the incident is held to be an



untoward incident. Therefore, if a person is travelling with a valid ticket, then only he/she is a bona fide passenger of the train.

13. In the instant case, no travelling authority or journey ticket was found in possession with the deceased at the time of inquest and there is no evidence on record to establish that deceased before boarding the train, he had purchased journey ticket and boarded the train. In absence of any corroborative evidence, the benefit of doubt cannot be extended in this in favour of the Applicant and this case does not cover the provisions of Section 2 (29) read with explanation clause of Section 124 A of the Railways Act 1989. The attending circumstances leading to non-recovery of journey ticket pointing to a preponderance of probability that the deceased was not a bona fide passenger.

14. With regard to alleged accidental fall, it is a fact that there is no direct witness to the alleged incident. The documentary evidence such as inquest report and police final report relied upon by the Applicants and submitted in this case clearly shows that deceased hit by an express train and died on the spot when he was walking on the track carelessly and negligently. Therefore, the burden lies on the Applicant to establish that the deceased in fact suffered from an accidental fall from the train before he can seek compensation U/s 124-A of the Railways Act, 1989. The expression "untoward incident" is defined U/s 123(c) of the Act which includes a case of accidental fall from the train. It is only on proof of the fact that the death was due to an untoward incident within the meaning of Section 123(c) that the dependant of the deceased would be entitled for compensation U/s 124-A of the Act.

15. The inquest Report which was immediately made after the incident and filed along with claim petition at Sl. No.9 and Sl. No.15 clearly states as under :

"What is the known cause of death?"

The deceased was found dead having leaned on the cement reapers between Kilometers 6/-13A and 6/15 having been hit by a train on upwards line between Loco Works Railway Station and Garage Works Railway Station prior to 14-45 hours on 28-02-17 while he was walking carelessly and negligently on the track.

How the deceased died and the opinion of the inquest witnesses regarding the cause of death ?-

We the Panchayatdars jointly and severally opined that the deceased was found dead having leaned on the cement reapers between Kilometers 6/-13A and 6/15 A between Loco Works Railway Station and Garage Works



Railway Station prior to 14-45 hours on 28-02-17 having been hit by an Express Train on the upward line having sustained grievous injury on the left side of his head and his right elbow having been fractured, died on the spot when he was walking on the track carelessly and negligently"

16. Moreover, the conclusion drawn in the police final report in the case is as under:

"..... I took up investigation of the above case and on examination of the witnesses, the witnesses stated to me as stated by them to the Sub-Inspector of Police. Hence I did not record their statements for the second time. In my investigation and as per the statements of the witnesses it is revealed that the deceased died in a rail accident on 28-02-17 prior to 14-45 Hours while the deceased was carelessly and negligently walking on the tack between K.Ms. 6-13A and 6-15 A on the upwards line having grievously injured on the left side of his of his head and having fractured his right elbow on the spot of the accident. In my investigation and as per the statements of the witnesses and of the joint opinion of the Panchayatdars and of the gravity of the injuries, and as per the opinion of the Medical Officer who conducted the post-mortem the cause of the death was due to an accident (Accidental Death) and due to no other violent acts and hence this report is submitted"

17. Although there is no direct witness to the alleged incident but the circumstantial evidence on record as stated above clearly shows that it is not a case of accidental fall from running train. It is a fact that mere finding a dead body by the side of railway track does not exclusively established that the said person died out of accidental fall from running train. In this connection, S.Mala, on duty SI/RPF/Egmore, Chennai has been examined before the bench as CW 1. During cross examination, S.Mala has stated before the bench that dead body of the deceased was found 30 feet away from the railway track and there is every possibility that the said person died out of hit by any train. There is complete lack of evidence with regard to the alleged falling down incident and in absence of journey ticket, the case does not have any merits for consideration as an untoward incident.

18. With regard to nature of injuries, the Respondent Counsel mentioned that post mortem examination report the deceased has crush injuries which is not possible when a person falls out of running train. In this connection Hon'ble High Court of Judicature at Bombay has also passed judgment in First Appeal No.290 of 2021 Meenadvei Jaiprakash Gupta and others v/s UOI in



which Hon'ble High Court dismissed the appeal of the applicants on the basis of injuries suffered by the deceased.

It is held by the Hon'ble High Court in para 12 that :

"Coming to the nature of injuries sustained by the deceased which are reflected in the inquest panchanama and the postmortem report, it is apparent that the injuries are deeply eschewed on the body of the deceased and from the stomach back side, the injury is described to be 15 X 16 cm long curve injury, with flesh being protruding out. The accident had broken the left ear of the deceased and right leg ankle was found to be torn and skin was seeing hanging. The nails of the tow were removed and stretching marks were noticed on various parts of the body. The nature of injuries that has been described in the inquest panchanama and in the postmortem note which referred to fracture of upper femur as well as lower hip radius bone and fresh injuries to the ankle as well as multiple abrasions over various parts of the body like the upper arm, abdomen and chest are reflective of the deceased being dragged over some distance and the injuries are not indicative of fall from the running train. The cause of death is opined as "Haemorrhagic shock due to polytrauma".

In para 13, it is held by the Hon'ble High Court that:

"Having a close assessment of nature of injuries sustained by the deceased, it is indicative of he being knocked down by a train and the Tribunal has rightly concluded that the injuries are not a result of accidental fall. Further since no material brought on record by the applicants to establish that the injuries are sustained by a fall, in this circumstance the Tribunal is justified in placing reliance upon the DRM report, recording that the alleged incident dated 28.04.2013 occurred due to the deceased's own negligence and carelessness as he sustained serious injuries as the deceased was present in the Railway operational area (tracks) unauthorized. Considering the nature of injuries sustained by the deceased which include crush injuries, fracture of left lower radius bone, right upper femur and multiple abrasion as well as contusion lacerated wound, back/from right upper back extending towards abdomen which is described as 10 X 3 muscle deep, are rightly considered by the Tribunal, to be injuries caused by the deceased on being hit by an unknown train and is not a case of accidental fall."

19. Although the Ld. Counsel for the Applicants has submitted various citations but looking at the facts and circumstances of the case supported documentary evidence I find more force and momentum with argument of the Respondent Counsel that the deceased was neither a bona fide passenger



and incident of death of the deceased was not involved in any untoward incident as defined in Section 123 (c) (2) of the Railways Act. Therefore, the Applicants are not entitled to get compensation under section 124 A of the Railways Act 1989. These issues, therefore, are decided accordingly against the applicants and in favour of the Respondents.

20 **Issue No. 3 & 4:** In view of the findings on Issues No. 1 and 2, which goes against the Applicants, these issues place into insignificance and it will be redundant exercise. These issues are disposed of accordingly.

21. **ORDER:** The OA is dismissed on merits. There shall be no order as to costs.



(Syed Nishat Ali)

Hon'ble Member (Technical), RCT/Nagpur Bench at BBS

Pronounced in open Court on 19.11.2025
Bhubaneswar