

RAILWAY CLAIMS TRIBUNAL:: BHOPAL BENCH
HON'BLE SHRI AJAY KUMAR GARG, MEMBER (JUDICIAL)

Case No	OA/II(u)/BPL/66/2020
Date of incident	04.10.2019
Date of Registration	16.03.2020
Date of Decision	04-04-2025

रविकांत त्रिवेदी S/o स्व श्री इन्द्रजीत त्रिवेदी
निवासी ग्राम/पोस्ट बैरहना
थाना कोठी, जिला सतना (म प्र)

..... APPLICANT

Versus

Union of India, through
General Manager
South East Central Railway
Bilaspur (C.G.)

.....RESPONDENT

Claim for Rs. 8,00,000/-

Represented by : Shri Ashok Kumar Srivastava/Smt Farzana Aziz, Counsel for the Applicant.
Shri Inderjeet Singh Rajput, Ld. Counsel for Respondent.

J U D G M E N T

1. Applicant has filed the present claim application claiming Rs. 8,00,000/- under section 16 of the Railway Claims Tribunal Act, 1989, for the death of his Mother → श्रीमती प्रतिभा त्रिवेदी (hereinafter called the deceased) in an untoward incident on 04.10.2019.

2. Applicant vide his claim petition, has averred that - दिनांक 4.10.2019 को मेरी माँ श्रीमती प्रतिभा त्रिवेदी, मेरी मौसी सुधा दुबे और मामी श्रीमती प्रतिभा दुबे हरी रेलवे स्टेशन से पेन्द्रा रोड स्टेशन तक का द्वितीय श्रेणी यात्रा का टिकट क्रय कर हरी से पेन्द्रा रोड रेलवे स्टेशन तक 18233 इन्दौर बिलासपुर से आ रही थी। पेन्द्रा रोड रेलवे स्टेशन पर ट्रेन से उतरते अचानक ट्रेन के चल देने के कारण मेरी माँ श्रीमती प्रतिभा त्रिवेदी ट्रेन का झटका लगने से अपना संतुलन नहीं रख पाई और पेन्द्रा रोड रेलवे स्टेशन पर चलती ट्रेन से गिर कर घायल हो गई थी। दुर्घटना के बाद तत्काल रेलवे वालों के सहयोग से मेरी माँ श्रीमती प्रतिभा त्रिवेदी को इलाज के लिये शासकीय अस्पताल गोरैला ले जाया गया जहाँ पर इलाज के दौरान मेरी माँ श्रीमती प्रतिभा त्रिवेदी की दिनांक 4.10.2019 को मृत्यु हो गई थी। उपरोक्त दुर्घटना की सूचना उप स्टेशन प्रबंधक पेन्द्रा रोड के द्वारा G.R.P. पेन्द्रा रोड को दी गई थी जिस पर G.R.P. पेन्द्रा रोड के द्वारा मार्ग क्र 0 78-09/19 पर कायमी की जाकर शासकीय अस्पताल गोरैला से शव का शव विच्छेदन कराया जाकर शव को परिजनों के सुपुर्द किया जाकर जॉच कार्यवाही की गई थी। G.R.P. पुलिस पेन्द्रा रोड द्वारा की गई जॉच कार्यवाही के अनुसार मेरी माँ श्रीमती प्रतिभा त्रिवेदी की मृत्यु यात्रा के दौरान चलती ट्रेन से गिरने से आई चोटों के कारण हुई है।

3. Respondent has filed Written Statement & DRM report in support of its contention. DRM Report R-1 based on police investigation, has concluded its findings as under:-

जांच का निष्कर्ष : उक्त मामले की जांच से स्पष्ट है कि मृतिका प्रतिभा त्रिवेदी, दिनांक 04.10.19 को अपने छोटी बहिन सुधा दुबे के साथ गाडी सं. 18233 इन्दौर बिलासपुर नर्मदा एक्सप्रेस में हर्दी रेलवे स्टेशन से पेन्द्रारोड रेलवे स्टेशन तक यात्रा के दौरान जब गांडी पेन्द्रारोड रेलवे स्टेशन के प्लेटफार्म नं. 01 में प्रवेश के समय चलती ट्रेन से उतरने के प्रयास में वह प्लेटफार्म और ट्रेन के गेप में गिर गयी जिस कारण उन्हें सिर व हाथ में गहरी चोट आयी और इलाज के दौरान शासकीय अस्पताल गोरैला में उनकी मृत्यु हो गयी थी। मृतिका की छोटी बहिन सुधा दुबे भी साथ यात्रा कर रहीं थी उन्होंने अपने बयान में बताया था कि उनकी बहिन चलती ट्रेन से उतरने के प्रयास में गिरकर गहरी चोट लगने से घायल हुई थीं, जिसमें रेल प्रशासन की कोई गलती नहीं है। घटना के बाद टिकट भी गुम होना बताया इससे यह स्पष्ट होता है कि दोनों बहन बिना रेलवे टिकट के ही यात्रा कर रही थी क्योंकि दोनों स्टेशनों के मध्य स्लीपर क्लास का टिकट नहीं बनता है। यह घटना मृतिका कि स्वयं कि गलती से घटी है जिसमें रेलवे प्रशासन की कोई गलती नहीं है।

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4. The Tribunal after going through the pleadings and hearing counsel for the parties, framed the following issues 10.02.2021 for adjudication:

1. Whether the deceased was a bonafide passenger of the train in question at the time of occurrence of the alleged untoward incident?
2. Whether the death of the deceased was due to the said alleged untoward incident as defined u/s 123© r/w 124-A of the Railways Act, 1989?
3. Whether the respondent railway is protected under the Section 124-A of the Railways Act and is not liable to pay any compensation to the applicants?
4. Whether the applicants are the legal dependents of the deceased to claim/receive the compensation, if any granted? Who else are the dependents?
5. Relief and cost?

5. Applicant witnesses- रविकांत त्रिवेदी (Son of deceased) as AW-1 and श्रीमती सुधा दुबे (Sister/Co-passenger of deceased) as AW-2 appeared before court and filed their affidavits (AW-1/A) & (AW-2/A) respectively towards examination in chief. Said applicant witnesses were cross-examined by Respondent's Counsels.

6. Respondent does not want to adduce any evidence and is relying upon the statutory report of DRM R-1 and annexure annexed to it.

7. Having perused the records made available on behalf of both the applicant and the respondent by their respective counsels, heard the argument advanced by them and have gone through the various submissions made by both the counsels and my findings on the issues are as under:-

Issue Nos. 1, 2 & 3:- The three issues being inter-connected are being taken up together for discussion and disposal:-

8. Applicant in Claim Petition under Para No. 07 has averred that Journey ticket of deceased was lost. In order to discharge onus, Smt. Sudha Dubey W/o Late Shri Pooran Lal Dubey (Sister/Co-passenger of deceased) has been examined as AW-2 by filing self Affidavit AW-2/A. During Cross-examination, she has stated on oath that- "घटना 04-10-2019 की है, मेरे साथ मेरी बड़ी बहन मृतका प्रतिभा त्रिवेदी एवं मेरी भाभी श्रीमती प्रतिभा दुबे थी. मुझे गाड़ी का नाम व नंबर नहीं पता, हम तीनों साथ-साथ एक ही कोच में बैठे थे, घटना मैंने नहीं देखी, टिकट मृतका ने ही लिया था, टिकट एक ही था, टिकट मृतक दीदी ने ही खरीदा था, मुझे इसकी कीमत नहीं मालूम।

9. With regard to bonafide of deceased, Respondent Counsel has contended on the issue that no journey ticket was recovered from the body of deceased.

10. Further on perusal of Merg Intimation Report (A/2), Request by GRP Pendra Road to Civil Hospital (A/3), Memo of Station Master Pendra Road (A/4) & Naksha Panchnama (A/5) wherein it has been averred that the death of deceased had occurred owing to fall from train and all these documents have been admitted by Respondent through Respondent's Counsel during the process of admission/denial of documents. I need not detain myself so far as death due to untoward incident is concerned, as in the DRM report, it is specifically concluded that the deceased had died as a result of fall from train. The conclusion drawn in the DRM Report Exhibit R-1 is reproduced below:

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" यह स्पष्ट है कि मृतका प्रतिभा त्रिवेदी जो दिनांक 04.10.19 को अपने छोटी बहिन सुधा दुबे के साथ गाड़ी सं. 18233 इन्दौर-बिलासपुर नर्मदा एक्सप्रेस में हरी रेलवे स्टेशन से पेण्डारोड रेलवे स्टेशन तक यात्रा कर रही थी। जब गाड़ी पेण्डारोड रेलवे स्टेशन के प्लेटफार्म नं. 01 में प्रवेश कर रही थी तभी मृतका प्रतिभा त्रिवेदी चलती ट्रेन से उतरने के प्रयास में वह प्लेटफार्म और ट्रेन के गेप में गिर गयी जिस कारण उन्हें सिर व हाथ में गहरी चोट आयी और ईलाज के दौरान शासकीय अस्पताल गौरेला में उनकी मृत्यु हो गयी थी। मृतका की छोटी बहिन सुधा दुबे भी साथ यात्रा कर रही थी जिन्होंने घटना दिनांक को अपने बयान में बताया था कि उनकी बहिन चलती ट्रेन से उतरने के प्रयास में गिरकर गहरी चोट लगने से घायल हुई थीं, जिसमें रेल प्रशासन की कोई गलती नहीं है। मृतका की बहन भी उसी गाड़ी में साथ यात्रा कर रही थी और बताया कि हरी से पेण्डारोड स्टेशन के लिए स्लीपर कोच में यात्रा कर रहे थे और घटना के बाद टिकट भी गुम हो गया बताया जिससे स्पष्ट होता है कि दोनों बहन बिना रेलवे टिकट के ही यात्रा कर रही थी क्योंकि दोनों स्टेशनों के मध्य स्लीपर क्लास का टिकट नहीं बनता है। यह घटना मृतका कि स्वयं कि गलती से घटी है जिसमें रेलवे प्रशासन की कोई गलती नहीं है।"

11. So far as negligence is concerned, the application of Principle of Strict Liability – Concept of Self-Inflicted Injury has been widely discussed in para no. 16.1 of Apex Court Judgement in Union of India Vs Rina Devi (Civil Appeal No. 4945 of 2018). The same is reproduced below:-
"Sections 124 and Section 124A provide that compensation is payable whether or not there has been wrongful act, neglect or fault on the part of the railway administration in the case of an accident or in the case of an "untoward incident". Only exceptions are those provided under provision to Section 124A. In Prabhakaran Vijaya Kumar it was held that Section 124A lays down strict liability or no fault liability in case of railway accidents. Where principle of strict liability applies, proof of negligence is not required"

12. Further, Ld. Counsel for the applicant submitted that in case of accidental fall of any passenger from a train carrying passengers, in order to escape the liability to pay compensation, it is necessary for the railways to adduce evidence that the incident is of the kind described in proviso (a) to (e) of sec.124A. Here Respondent has failed to prove, by bringing any evidence either oral or documentary, that the instant case does not come within the purview of an untoward incident as defined in section 123 (c) of the Railways Act, 1989. Thus, Issue No. 2 is decided in favour of the applicants by holding that the deceased died as a result of fall from the train and the same tantamounts to an "untoward incident", for which Railway Administration is liable to compensate u/s 124 A of the Railways Act. Accordingly, Issue No. 3 is decided in negative against the Respondent.

13. It is the case of the applicant that the ticket purchased was lost during the course of incident. The applicant **Ravikant Trivedi** (Son of deceased) examined as AW-1 & Smt. Sudha Dubey-Sister and copassenger of deceased) examined as AW-2 have stated in their affidavits and also sated on oath that deceased had purchased a ticket from Harari to Pendra Road and said ticket was lost in the incident.

14. Respondent Counsel vehemently argued the case on the issue that no journey ticket was recovered from the body of deceased, hence deceased cannot be termed to be a bonafide passenger on the alleged date of the journey.

15. Counsel for applicants has relied upon the observations made by the Hon'ble Supreme Court in Union of India Vs Rina Devi (2018 ACJ 1441) wherein, it is held that if an affidavit is filed by the victim or the dependants of the victim, the same is sufficient to hold that the victim was a bonafide passenger. It would be apposite here to reproduce para 17.4 of Judgement of Rina Devi (supra) as under:-

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"17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative 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 will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstance. 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."

16. Based on the observations made by the Hon'ble Supreme Court in Rina Devi (supra) the Applicants have discharged their duty in the shape of affidavit of AW-1 and now the onus shifts on the Respondent to prove by substantial evidence that deceased was not a bonafide passenger on the date of the alleged journey. Respondent has not proved the same. In view of above, it has been held that the deceased was a bonafide passenger of the train in question on 04.10.2019 while travelling ex Harari to Pendra Road. Thus, both issues nos. 1&2 are decided in favour of the applicant and against the respondent and Issue No. 3 in negative against the Respondent.

17. Applicant herein is the only Son of deceased who has stated during the course of cross-examination that his parents are no longer alive. In support of his sole dependency, Applicant has filed Death Certificate of his Sister (Pooja Trivedi- Second child of deceased- died on 19.10.2005). Applicant has also filed documents annexed at A/7(16-19) alongwith his claim petition. There is no other evidence, which may show that the deceased had any other dependant. Nothing contrary has also been shown on behalf of the Respondent. Nobody else has come before the Tribunal, claiming himself/herself as dependent upon the deceased. Thus, it is held that under Section 123 (b) (i) of the Railways Act, 1989, Applicant above is the sole legal dependant of the deceased and Issue No.4 is decided accordingly.

Issue No. 5:-

18. The applicant, under Part-I of the Schedule of the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990, as amended in 1997 and 2016, is entitled for Rs.8,00,000/- interest @ 9% p.a. from the date of incident i.e. 04.10.2019 till the date of realization, to the aforesaid dependant of the deceased as compensation on account of the death of the deceased in an Untoward Incident. I, award the amount of compensation to the applicant as under and **Issue No.5** is decided accordingly:-

Applicant No.	Name of Applicant	Relation with deceased	Amount(Rs)
1.	रविकांत त्रिवेदी पुत्र स्व श्री इन्द्रजीत त्रिवेदी	Son	8,00,000/-
TOTAL			8,00,000/-

19. The claim application is allowed on contest without costs. The following order is passed :-

ORDER

20. Respondent Railway Administration is hereby directed to pay jointly Rs 8,00,000/-(Rupees Eight Lakhs) alongwith interest @ 9% p.a. from the date of incident i.e. 04.10.2029 till the date of realization, to the aforesaid dependant of the deceased as compensation.

21. The aforesaid applicant is hereby directed to furnish his fresh Bank account particulars of a Nationalized bank, situated nearest to his place of residence, to the Respondent Railway as well as to the Addl. Registrar of this Tribunal within a period 30 days from the date of receipt of this Order.

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22. The Respondent Railway shall endeavor to make payment as early as possible, but not beyond 60 days from the date of receipt of copy of the Award passed by Tribunal in compliance of the directions of Railway Board letter No. 2021/TC-III/2610 dated 29.09.2021.

23. If the Respondent fails to deposit the compensation amount within 60 days from the date of receipt of copy of Award, the respondent shall pay further interest @ 12% from the date of receipt of copy of award till the date of actual payment.

24. So far as disbursal of the amount of award is concerned, we have heard the learned counsel for the parties.

25. We may notice that in **Geeta Devi Vs. Union of India, Delhi High Court** had observed as under:

"5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990.

5.1. Many of the claimants are drawn from rural areas with low levels of literacy and lower levels of making appropriate decision for the use of amounts guaranteed under the awards. There are several instances of their exploitation by middlemen and touts operating in the field. The scope of such exploitation is itself one of the incentives for fomenting bogus claims, fabricated documents and duplicate claims in different Benches of the Tribunal for the same cause of action. The availability of bulk funds in the name of an ill-informed claimant is also a cause for exploitation. A scheme for protection of the amount due to such a claimant is the need of the hour. Earlier, this Court has involved 21 Nationalized Banks in dialogue to evolve a scheme of annuities for disbursement of claims.

They have been ordered already to be implemented in this case, vide directions passed on 22nd February, 2019. This scheme as applied to motor accident claims has been approved by the Supreme Court in its order dated 05th March, 2019 in *Krishnamurthi versus New India Insurance Company*, SLP(C) No.31521-31522 of 2017. A statutory rule backing will therefore, best serve the interest of the litigant in the manner set out below:

5.2 Insert following Rule 5 after Rule 4:-

Rule 5: **Mode of payment**—(1) The Tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode shall sub-serve justice.

(2) If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad item to use the interest accruals on the deposit that shall be made during the minority for maintenance.

(3) Nothing in this Rule shall limit the power of the Tribunal to make modifications of the mode of disbursal for reasons to be stated in writing depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed deposit, for the benefit of the claimant.

26. In pursuance of the above Orders passed by the Delhi High Court, Government of India has issued a Notification on 3rd of June, 2020, amending Railway Accidents & Untoward Incidents (Compensation) Amendment Rules, 2020, amending Rule 5, which reads as under:

27. The new bank a/c(s) shall be opened with following conditions;

- i) No ATM/Debit Card should be issued.
- ii) No cheque book should be issued.
- iii) Electronic transfer of funds shall be disabled.
- iv) Mobile or Internet banking facility will also be disabled.

28. The Bank shall not release any amount received by the bank, unless the governing conditions of payment framed by this Tribunal is conveyed to the Nodal Bank through Respondent Railway.

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29. If the Claimant(s) are not willing to open fresh bank account(s), the concerned bank shall cancel cheque book and/or ATM/Debit Card (if issued), Electronic transfer and Mobile Internet banking facility, before the disbursement of the awarded amount and shall stamp the passbook to this effect.
30. Withdrawal by the Claimant (s) will be only through with-drawal form(s).
31. Registry shall take the following documents on record from the Applicant(s):
 (a) Details of the Bank Account(s) of the Applicant(s) near the place of their residence with the necessary endorsement.
 (b) Aadhaar Card and PAN Card or anyother appropriate ID card; and
 (c) Two sets of photographs and specimen signatures of the Applicant(s).
32. Transfer of Account(s) shall not be allowed, except with the permission of the Tribunal.
33. Respondent Railway, after receiving the particulars of the bank account of all the applicants shall verify and transmit all the details of the same to Additional Registrar, RCT/Bhopal, and thereafter,
34. Respondent will deposit the entire amount of awarded compensation and interest through RTGS in the **Suitors Account No. 10064520760 IFSC Code SBIN0005798** (State bank of India, Shivaji Nagar Branch, Bhopal, under advice to Additional Registrar within a period of 60 days from the date of communication of the Award.
35. It is further directed that the Respondent shall issue necessary instructions to the Suitors Bank to not to release any amount from the said fixed deposit amount till the order in original to this effect from this Tribunal, is received by the Suitors Bank.
36. The Claimant(s) be directed to produce the copy of the Order passed by the Railway Claims Tribunal before the concerned bank whereupon the bank be directed to make an endorsement on the passbook regarding compliance of conditions imposed by the Court. The Claimant(s) be directed to produce the passbook with the necessary endorsement as well as Aadhaar Card, PAN Card or any other appropriate ID Card before Respondent.
37. Before disbursement of the award amount, Respondent Railway shall satisfy himself that the savings bank account(s) of the Claimant(s) is nearest to the place of their permanent residence and an endorsement has been made by the bank on the passbook of the Claimant(s) to the effect that no cheque book(s) and/or debit card(s) shall be issued to the Claimant(s) without prior permission of Railway Claims Tribunal.
38. In order to ensure safety of the amount so deposited, the bank shall not permit any addition in the individual saving bank account except where this is necessary i.e. in case of minor(s).
39. To protect the amount from being frittered away, the amount shall be deposited/released in the following manner.
40. Applicant No.1 **Ravi Kant Trivedi** being dependent of deceased shall be permitted to withdraw 10% of their awarded compensation amount alongwith total updated interest accrued on their respective awarded share amount. The remaining 90% balance amount of their award share amount shall be invested in FDR for a period of **five** years in their respective names in the Nationalised banks, near to the place of their residence, with monthly payment of accrued interest to them.
41. The original fixed deposit(s) Receipts shall be retained by the 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 Claimant(s).
42. The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of their residence.

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43. No. loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Court.

44. The copy of the Order be sent to the Nodal Officer/Branch Manager of the State Bank of India for complying with the above directions.

45. Railway shall place on record the proof of deposit of the award amount with up to date interest alongwith a calculation sheet.

46. Upon such proof being filed, Registry shall ensure that the interest up to the date of notice of deposit has been deposited by the Railways.

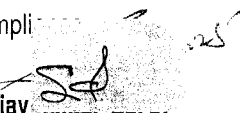
47. The Original Claim Application stands disposed off accordingly.

48. Registry is directed to send a copy of this judgement to the parties.

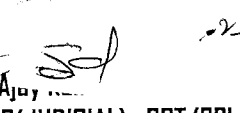
49. Parties to bear their own costs.

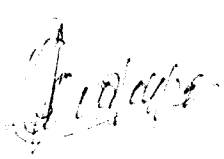
50. Registry will report compliance within 90 days of this Order.

51. Let the case file be consigned to the record room after due compli-

(Ajay) 
MEMBER(JUDICIAL), RCT/BPL

Dictated to PS-II, transcribed by her, corrected, signed and pronounced ~~in me~~ in the open Court on this day of 04 March, 2025
April

(Ajay) 
MEMBER(JUDICIAL), RCT/BPL


JUDGE