

RAILWAY CLAIMS TRIBUNAL :: BHOPAL BENCH

Case No. OA/IIu/BPL/8/2021
Date of Registration : 11.01.2021
- Date of Judgement : 14.12.2021
Claim amount Rs. 8,00,000/-

Saraswati Sahu
w/o late Lala Sahu
R/o Ward No. 06
Dabari para
Jawalpur
Baloda
Janjgir Champa
C.G. 495559
Present Address
C/o Chhotelal Sahu
Atal Awas
Pragati Vihar
Thakur Deo Nagar
Chingraj Para Chantidih
Bilaspur - 495001

Versus

Applicants

Union of India through
its General Manager,
South East Central Railway,
Bilaspur

Respondent

Represented by Shri R.S. Baronia, Ld. Counsel for Applicants.
Shri H.K. Sharma, Rly. Advocate for Respondent.

JUDGEMENT

BY ALOK KUMAR SHUKLA, MEMBER TECHNICAL - This is a case for compensation for Rs. 8,00,000/- filed by the Applicant under section 16 of the RCT Act, 1987 for the death of Lala Sahu, s/o Kansli Sahu in an alleged untoward incident.

2. Applicant Saraswati Sahu vide her claim petition has pleaded that on 09.04.2019, Lala Sahu, s/o Kansli Sahu was travelling by a Mail Express Train from Raipur to Akaltara holding a valid journey ticket bearing No. UXA 99980838. That, during the course of journey, he accidentally fell down from running train. As a result of the said fall, he suffered grievous injuries, which resulted in his death on the spot. Hence, filed the said claim compensation application.

3. The Respondent railway administration has contested the case by filing Written Statement and DRM Report R-1. Respondent has specifically denied that there was an untoward incident as defined u/s 123(c) (2) r/w sec.124A of the Railways Act, 1989. Further, Respondent has put the Applicants to strict proof of bonafides of the deceased.

4. On the basis of pleadings of both the parties following issues were framed on 15.06.2021.

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भोपाल पीठ, भोपाल

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5. ISSUES:

1. Whether the deceased was a bonafide passenger at the time of the incident?
2. Whether the death of the deceased was due to an 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 exemption clause to section 124-A of the Railways Act and is not liable to pay any compensation?
4. Whether the applicants are the sole dependants of the deceased to claim/receive the compensation, if any, granted? Who else are the dependents?
5. Relief and cost?

6. Evidence consists of documents A/1 to A/11. Applicant witness Saraswati Sahu, w/o Laila Sahu appeared in court in person and filed her affidavit in evidence. The said witness was cross-examined on her affidavit. Respondent in their defence have relied upon DRM Report R-1.

7. Having heard the arguments advanced by both parties and after going through the evidence on record, my issue-wise findings are as under:

8. Issue No. 1: Applicant in support of bonafides of the deceased have filed certified copy of journey ticket bearing no. UXA 99980838 dt. 09.04.2019. Naksha Panchayatnama on its rear side bears mention to recovery of journey ticket.

9. Respondent in its written statement has contested the case on the grounds that "पंचायतनामा में माल की तफसील जो फौतशुदा के पास से बरामद हुआ है के कालम में मृतक के पास से यात्रा करने संबंधी कोई टिकट या पास आदि जप्त नहीं हुआ है। However, DRM Report has got the said ticket verified from Raipur Railway Station Booking Office and found to be authentic. Apart from a general denial, Respondent has not led any evidence either oral or documentary to challenge the bonafides of the deceased.

10. In view of above facts and findings, I do not hesitate to hold the deceased to be a bonafide passenger on the date of the alleged incidence i.e. on 09.04.2019 while travelling by train ex Raipur to Akaltara. Thus, Issue No. 1 is decided in favour of the Applicant and against the Respondent.

11. Issues Nos. 2 & 3 : Both the issues are taken up together being inter-connected.

12. Further, with regard to occurrence of the alleged incident, in the opinion of the Panchas, the death of deceased had occurred owing to fall from train. Besides, DRM investigation report on record has admitted the alleged incident due to fall from train, but has attributed the same to deceased's own act of negligence as he was travelling negligently by sitting at the door of the coach and as a result, he fell down from train, which ultimately led to his death.

13. As far as negligence is concerned, here, I would like to cite the case law of Hon'ble High Court of Kerala at Ernakulam in Thomas V UOI (2008 ACJ 1921), wherein it is held as under:

"Railways Act, 1989, sections 123(c)(2) and 124A-untoward incident—Compensation—Accidental falling of passenger from a train—Passenger was attempting to get off the train as he had boarded a wrong train when he fell down and his legs were crushed under the wheels—Defence that accident occurred due to his own negligence—Whether negligence of



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the injured can disentitle him from claiming compensation u/s 124A – Held: NO: Negligence of either the railway administration or that of the injured is not relevant; passenger has not suffered injuries due to any of the reasons stated in exceptions (a) to (e) of provision to section 124-A”.

14. In this context Hon'ble SC in UOI Vs Rina Devi in the SC of India (Civil Appeal No. 4945 of 2018) has held as under:
“the concept of ‘self-inflicted injury’ would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on ‘no fault theory’.”
15. In view of above cited judgments and documentary evidence on record, which have not been challenged by respondent, I hold that the death of deceased had occurred due to an untoward incident as defined u/s 123(c) (2) r/w section 124A of the Act, 1989. Thus, Issue no. 2 is decided in affirmative in favour of the Applicants and Issue no. 3 in negative against the Respondent.

16. Issue No. 4:

Applicant herein is wife of deceased. However, Applicant Saraswati Sahu has stated on oath that parents of deceased namely (i) Kanshi Prasad Sahu (f/o deceased) and (ii) Purnima Sahu, (m/o deceased) are alive. She has further revealed that she had not made them co-applicants as she is no longer staying with them. Further stated that she is issueless. Applicant in support of her dependency has filed copy of (i) Adhar Card & (ii) Copy of Saving Bank Account. However, as per Section 123 (b) (ii) of the Railway Act, 1989, parents are also entitled for compensation. There is no other evidence, which may show that the deceased had any other dependants. Nothing contrary has also been shown on behalf of the Respondent. Nobody else has come before the Tribunal, claiming himself/herself as dependant upon the deceased. Thus, it is held that Applicant Saraswati Sahu and parents of deceased as discussed above are the legal dependants of the deceased and Issue No.4 is decided accordingly.

17. Issue No. 5: Relief & Cost

18. Applicants, under Part-I of the Schedule of the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990, as amended in 1997 and 2016, are altogether entitled to Rs 8,00,000/- as compensation on account of the death of the deceased in an untoward incident. I apportion the amount of compensation amongst the applicants/dependants as under and Issue No.5 is decided accordingly :-

Sl. No.	Name	Relation with the deceased	Amount (Rs.)
1.	Smt. Saraswati Sahu aged about 29 years.	wife	4,00,000/-
2.	Shri Kanshi Prasad Sahu	father	2,00,000/-
3.	Smt. Purnima Sahu	mother	2,00,000/-
Applicants (2) & (3) above R/o Ward No. 6 Dabari Para, Javalpur, Baloda, Jangir Champa C.G. 495559			

Total : Rs 8,00,000/-

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

ORDER

17. Respondent Railway Administration is hereby directed to pay Rs 8,00,000/- (Rupees eight lakhs) only alongwith interest @ 6% p.a. from the date of incident till actual payment, to the aforesaid dependents of the deceased, as compensation.
18. The aforesaid applicants are hereby directed to furnish their fresh Bank account particulars of a nationalised bank, situated nearest to their 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. **If the Applicants fail to provide the fresh bank account details within 30 days from the receipt of Order, no interest shall be payable from the date of this Order till the date of submission of the Bank Account particulars, as directed above.**
19. After receipt of relevant bank documents, the Respondent Railway shall endeavour to make payment as early as possible, but not beyond 60 days from the date of receipt of relevant bank details.
20. **If the Respondent fails to deposit the compensation amount within 60 days from the date of receipt of fresh bank particulars of the Applicants, the respondent shall pay interest @ 9% from the date of submission of account details till the date of actual payment.**
21. 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.**
22. 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.
23. 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.
24. Withdrawal by the Claimant (s) will be only through with-drawal form(s).
25. Transfer of Account(s) shall not be allowed, except with the permission of the Tribunal.
26. 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, 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.**
27. It is further directed that the Registry 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.
28. 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.



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29. 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.
30. 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).
31. To protect the amount from being frittered away, the amount shall be deposited/released in the following manner.
32. 10% of share of compensation amount in favour of Applicant 1 above, Smt. Saraswati Sahu, w/o late Lala Sahu, including cumulative interest accrued till the date of deposit, shall be released immediately, by depositing the amount in her saving bank account and rest of the amount shall be kept in a Fixed Deposit in her name for a period of 10 (ten) years in a Nationalised Bank. No loan or encumbrance shall be created on this Fixed Deposit. However, Applicant shall be at liberty to receive the interest accruing on her FDR every month or on quarterly basis, as per her convenience.
33. 10% of share of compensation amount in favour of parents of deceased namely Shri (i) Kansi Prasad Sahu, (father of deceased) and (ii) Smt. Purnima Sahu, (mother of deceased) including cumulative interest shall be released immediately, by depositing the amounts in their respective saving bank accounts and rest of the amount shall be kept in separate Fixed Deposits, in their respective names in a Nationalised Bank for a period of 05 (five) years. No loan or encumbrance shall be created on these Fixed Deposits. However, Applicants shall be at liberty to receive the interest accruing on their respective FDRs every month or on quarterly basis, as per their convenience.
34. 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).
35. 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.
36. No. loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Court.
37. 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.
38. Registry shall fix a date for reporting compliance, within 90 days of the award itself.
39. Railway shall place on record the proof of deposit of the award amount with up to date interest alongwith a calculation sheet.
40. 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.
41. Hon'ble Supreme Court in para no. 40 of its Judgement in *M.R. Krishnamurthy Vs. New India Assurance Company Ltd.*, in CA 2476/2677 of 2019 decided on March 5th, 2019, has directed all Claims Tribunal in the Country to follow the Deposit Scheme issued by Delhi High Court in *Rajesh Tyagi Vs. Jal Veer Singh*.
42. The Original Claim Application stands disposed off accordingly.



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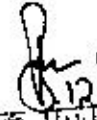
43. Registry is directed to send a copy of this judgement to the parties.
44. Parties to bear their own costs.
45. Let the case file be consigned to the record room after due compliance


14/12/2021
(ALOK KUMAR SHUKLA)
MEMBER (TECHNICAL)
RCT/BPL

Dictated to Steno, transcribed by her, corrected, signed and pronounced by me on this day of
14, December, 2021.


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MEMBER (TECHNICAL)
RCT/BPL




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