



रेल्वे दावा न्यायाधिकरण
चंडीगढ़ पीठ

**RAILWAY CLAIMS TRIBUNAL
CHANDIGARH BENCH**

Claim Application: OA/IIu /21/2023

CORAM: Mr. Umesh K. Sharma, Hon'ble Member (Judicial)

Date of filing: 10.05.2022

Judgement reserved on: 30.07.2024

Judgement pronounced on: 14.08.2024

1. **Kalasiya Devi**, aged about 59 years,
Wife of Sh. Bathu Sahni
2. **Bathu Sahani**
Son of Late Sh. Jugeshwar Sahni,
Both residents of Village Fular,
Post Office Anjana Kot, Tehsil Motipur,
Distt. Muzaffarpur, Bihar – 843 311.

.... **Applicants**

Versus

Union of India,
Through General Manager,
Northern Railway, Baroda House, New Delhi, **Respondent**

Claim for Rs. 8,00,000/-

Appearances: Sh. Krishan Lal, Counsel for the applicants.
Sh. Varun Dhawan, Ld. Counsel for the respondent.

निर्णय
JUDGMENT

(By Sh. Umesh Kumar Sharma, Member (Judicial))

1. The present claim petition has been filed by parents of the deceased, under Section 16 of the Railway Claim Tribunal Act 1987, read with Section 124-A of The Railways Act, 1989 as amended up to date,

seeking compensation to the tune of Rs. 8,00,000/- (Rupees Eight Lakhs Only), along with interest from the respondent railway, on account of death of Jiya Lal Sahni, allegedly in an untoward incident.

2. The brief facts of the case, as stated by the applicants in their claim application, are that the deceased Jiya Lal went to Yamunanagar to meet his brother-in-law (Jeeja) namely, Sh. Joginder Sahni and started working there in a plywood factory. Later on, he started working in Kalanaur. On 3.3.2018, the deceased reached railway station Yamunanagar and purchased a ticket for going to Kalanaur railway station and boarded the train No. 04532, i.e. a passenger train. There was huge rush in the train and he was sitting near gate of the compartment. Suddenly, the train took a jerk and the deceased accidentally fell down from the running train, got seriously injured and succumbed to the injuries. Somebody issued *rukka* to GRP, Yamunagar. Hd. Constable Sh. Baljit Singh No. 593/GRP reached the site and prepared police report. During search of the dead body of the deceased ATM Card of IDFC Bank, Aadhar Card, old receipt of Jiya Lal Sahni were recovered but GRP has not mentioned whereabouts of the ticket as nobody was present at the time of physical search by the GRP. GRP Head Constable recorded statement of Kalasiya Devi and Bhola Kumar on 15.4.2018. He got thumb impression of Kalasiya Devi on paper and showed the same as statement of father of the deceased whereas father of the deceased never visited Yamunanagar on 15.4.2018. On 14.4.2018, Sh. Baljit Singh, Hd. Constable called the applicants to his office and handed over copy of DDR/FIR and in the evening, he again called Sh. Bhola Kumar Sahni to come to his office early in the morning on 15.4.2018. On 15.4.2018, applicants again visited GRP office where Sh. Baljit

Singh handed them over copy of new FIR and took back the old one, concealing the true facts. Thus, claiming the deceased as bonafide passenger and the incident coming within the purview of Section 123(c)(2) of the Railways Act, 1989 and themselves to be the only dependents of the deceased, applicants have sought compensation along with interest from the respondent railway.

3. Respondent Railway appeared in pursuance of notice issued by this Tribunal and filed its written statement along with statutory DRM's Inquiry Report, raising preliminary objection therein that the claim application is not maintainable in the present form. It is stated in the reply that the deceased was not a bonafide passenger of the train as no railway journey ticket was recovered from dead body of the deceased. It is stated in the reply that as per claim application filed by the applicant the deceased was travelling from Yamunanagar to Kalanaur by train No. 04532 but as per record, the time at which incident occurred, there is no scheduled time of passing this train through the place of incident. It is categorically stated in the reply filed by the respondent railway that Sh. Vinod Kumar, Loco Pilot of the train No. 19325 was an eye-witness to the incident resulting in the death of the deceased. As a witness his statement was recorded by the GRP on 3.3.2018, wherein he stated that while working in the train No. 19425 from Saharanpur to Amritsar, when his train was passing through the Gate No. 97-C, blowing horn, at high speed, one person who was crossing the railway line, came in front of engine of his train and got hit. He applied emergency brake but due to high speed, the train stopped after some distance. The guard of the train was informed, who deboarded and went to see the deceased but could not see any person so the train went ahead. The information of the incident was given to Station Master, Yamunanagar through

walkie-talkie and written information was given to Station Master, Ambala railway station. The respondent stated that the incident does not fall within the purview of Section 123(c)(2) read with Section 124-A of the Railways Act. Sh. Joginder Sahni, brother-in-law of the deceased had given statement to GRP stating that the deceased had called him and asked him to meet him at his workplace and when he reached there, Sh. Rajinder said that the deceased was drunk and he had left factory without telling anyone. Upon this information, Sh. Joginder Sahni called the deceased telephonically and asked about his whereabouts and the deceased told him that he was near Pansra gate (*phatak*) and will meet him in sometime but did not turn up. Similarly, brother of Sh. Joginder Sahani has stated the same facts in his statement. From the statements of these witnesses, it is clear that the deceased was not travelling by any train rather he was present near the *phatak* (Pansra Gate) in the state of intoxication and died due to his own negligence while crossing the track in the state of intoxication.

4. On merits, the averments pleaded in the preliminary objections have been reiterated and the contents of the original claim application have been denied either being wrong or for want of knowledge. It has been prayed that the present original claim application deserves to be dismissed.
5. Based upon the pleadings of the parties and the documents on record, the following issues are framed by the Tribunal vide order dated 12.07.2023 for adjudication:
 - 1) *Whether the deceased was a bonafide passenger of the train at the time of incident?*

- 2) *Whether the incident is covered within the ambit of an untoward incident as is defined under Section 123(c)(2) read with Section 124-A of the Railways Act?*
 - 3) *Whether the applicants are the only dependents of the deceased?*
 - 4) *Relief to which the applicants are entitled?*
6. The applicants, in order to prove their case, have filed affidavit (AW-1/1) of applicant No. 1, Smt. Kalasiya Devi, mother of the deceased, AW-2/2 affidavit of Sh. Bhola Kumar Sahni, brother of the deceased, AW-3/3 affidavit of Sh. Yogendra Sahni, brother-in-law of the deceased, AW-4/4 Affidavit of Sh. Rajendra Sahni, brother of brother-in-law of the deceased, AW-5/5 Affidavit of Sh. Bathu Sahni, father of the deceased reiterating the facts as pleaded in the original claim application. These witnesses were duly cross-examination by the respondent's counsel. The applicant has tendered following documents in evidence, in support of the claim application:

S.No.	Particulars	Exhibit
1.	Statement of Kalasiya Devi as recorded by GRP	AW-1/2
2.	Statement of Sh. Bhola Sahni as recorded by GRP	AW-2/2
3.	Statement of Joginder Sahni as recorded by GRP	AW-3/2
4.	Statement of Rajendra Sahni as recorded by GRP	AW-4/2
5.	Certified copy of police paper book containing 14 pages including death report, fard jamatalashi, statements of Kalasiya, Bhola, Batahu, postmortem report, and final report.	-

7. Respondent Railway have filed its statutory inquiry report along with annexed documents and the same was collectively marked Ex. R-1. They have also exhibited documents RW-1/A, RW-1/B, RW-1/C (2 pages), RW-1/D. Respondent railway have also examined Sh.

Vinod Kumar, Loco Pilot of train No. 19325 UP as RW-1/1. He has tendered copy of Driver's note book as RW-1/2 in respondent's evidence. At the request of applicant's counsel, on 10.1.2024, Sh Baljit Singh, IO/ASI/GRP, Jagadhari was summoned, who was duly examined and cross-examined by the applicant's counsel. Original police report has been retained on record.

8. Applicants in this case have alleged that the IO in this case has got thumb impression of Smt. Kalasiya Devi on blank paper and recorded statement of Sh. Batahu Sahni, father of the deceased on it whereas he has never been to Yamunanagar. In order to ascertain whether the thumb impression on the statement of Batahu Sahni is of Smt. Kalasiya Devi or not, this Tribunal sent specimen thumb impressions of both the applicants to the Forensic Deptt., Chandigarh but they returned the same back stating that they do have facility to examine the thumb impression.

FINDINGS

9. I have gone through the case file carefully and perused the pleadings of the parties, material available on record, evidence adduced on behalf of the applicants/respondent and heard the arguments put forth by the Learned Counsel for the parties. My findings on the aforesaid issues are as under:

Issues No. 1 & 2

Both these issues being inter-connected are taken up together for discussion and decision.

10. The case of the applicants is that the deceased was travelling from Yamunanagar to Kalanaur by train No. 04532 on the strength of a valid railway journey ticket and he accidentally fell down from the

train and died. It is categorically alleged in the claim application that the GRP in its inquest report has not mentioned anything about the ticket.

11. Applicants from the very beginning have contested their cases on the ground that the GRP has play foul on them by not revealing the whereabouts of the ticket on which the deceased was travelling on the fateful day, and has prepared a false inquest report including false statement of the applicant, Sh. Batahu Sahni and others.
12. On the request of applicants, IO Sh. Baljit Singh, GRP/Jagadhari was summoned. He was examined and cross-examined at length. Original record of police proceedings in the case was also summoned and examined. Having gone through the entire record, evidence and arguments put forth by the rival parties, my findings on both these issues are negative in light of the following discussion:
 - a) Firstly, no ticket was recovered from dead body of the deceased though one purse containing Aadhar Card of the deceased, ATM card, some old slips were recovered from the dead body of the deceased during jamatalashi. Had there been any ticket, the same would have been recovered in jamatalashi. It is not the case of the applicants that nothing was recovered in jamatalashi of the deceased.
 - b) In order to prove the factum of purchase of ticket, applicants have filed affidavit or AW-1 of Sh. Yogender Sahni, brother-in-law of the deceased, who has allegedly accompanied the deceased up to railway station and witnessed him standing in the queue for purchasing ticket but he has not witnessed him purchasing ticket as he came back home. Applicant's counsel has submitted that in the police proceedings name of this

witness was wrongly mentioned as Joginder Sahni instead of Yogendra Sahni. This witness was the first to reach police on 5.3.2018, after receiving intimation regarding death of the deceased in this case. He in his statement, Ex. AW3/2, as recorded by the police on the same day has stated:

“बयान किया कि मैं उपरोक्त पते का रहने वाला हूँ. मेरा साला जियालाल साहनी पुत्र बताहू साहनी जाती मल्ला साहनी गाँव फुलार थाना मोतिपुर जिला मुजफ्फरपुर बिहार जो एक महीने पहले गाँव से काम करने के लिए मेरे पास आया था जिसको मैंने अपने भाइयों के पास महाराज इन्दरसीज प्लाई फैक्ट्री में मजदूरी का काम दिलवा दिया था दिनांक 03.03.2018 को मेरे पास मेरे साले का फ़ोन आया कि जीजा जी आप मुझ से मिलने के लिए आ जाओ जो मैं अपने साले से मिलने के लिए महाराजा फैक्ट्री से चल दिया और जब मैं महाराज फैक्ट्री में पहुँचा तो मेरे भाई राजेंद्र ने बतलाया कि जियालाल साहनी ने दारु पी रखी थी और वह बिना बताये चला गया जिस के बारे में मुझे नहीं पता कि वह कहाँ गया जो मैंने अपने साले जियालाल साहनी के मोबाइल पर फ़ोन किया और पूछा की आप कहाँ हो जिसने बतलाया की मैं पंसरा फाटक के पास हूँ और उसने मुझ से पूछा कि जीजाजी आप कहाँ हो तो मैंने कहा कि मैं तो आपके क्वार्टर पर हूँ तो ठीक है मैं आ रहा हूँ. उसके बाद भी काफी देर तक मेरा साला नहीं आया उसके बाद हम उसकी तलाश करने लग गए जिस की हमने कल भी काफी तलाश की परन्तु नहीं मिला जिस के बारे में मेने अपने बड़े साले भोला साहनी को भी बता दिया था की जिया लाल साहनी का पता नहीं चल रहा है की वह कहाँ चला गया और हम सभी मिलकर उसको ढूँढ रहे हैं परन्तु नहीं मिल रहा है .लाश व मौका को देख कर ऐसा प्रतीत होता है कि मृतक जियालाल साहनी की मौत रेलवे लाइन पार करते समय किसी नामालूम चलती रेलगाड़ी की अचानक चपेट में आने से रेलवे दुर्घटना द्वारा होने मालूम पड़ती है.”

- c) The contents of this statement are contrary to the contents of affidavit filed by the same witness/Jeejaji of the deceased. From the above statement of this witness, it is evident that the deceased was working in Maharaja Ind. Ply Factory, Khoojri Road, Yamunanagar and was residing in a room other than that

of AW1 and on the date of incident he had not dropped the deceased at railway station etc. It is pertinent to mention here that this witness has recorded his statement Ex. AW3/2 before GRP on the same day he came to know about death of the deceased and the contents mentioned therein are prima-facie much believable than the contents mentioned in his affidavit.

- d) The fact that the deceased had called and informed his brother-in-law, Sh. Yogender Sahni that he was near railway phatak pansra, is further corroborated by the statement Ex. AW4/2 of Sh. Rajender Sahni who has stated:

“दिनांक 03.03.2018 को मेरे पास मेरा बड़ा भाई आया और कहने लगा की मेरा साला जिया लाल साहनी कहाँ है तो मैंने कहा कि मुझे क्या पता मैं तो सोया हुआ था उसके बाद मेरे भाई ने अपने साले के पास फ़ोन किया तो जियालाल साहनी ने फ़ोन रिसीव नहीं किया उसके बाद जियालाल साहनी का मेरे भाई के पास फ़ोन आया की आप कहाँ हो जिसको मेरे भाई ने बतलाया की मैं तो आपके क्वार्टर पर हूँ आप कहा हो जो जियालाल साहनी ने बतलाया की मैं पंसरा फाटक के पास हूँ और मैं आप के पास आ रहा हूँ. उसके बाद काफी देर तक जियालाल साहनी नहीं आये और उस के बाद हम सभी उस की तलाश करने लग गए. लाश व मौका को देख कर ऐसा प्रतीत होता है कि मृतक जियालाल साहनी की मौत रेलवे लाइन पार करते समय किसी नामालूम चलती रेलगाड़ी की अचानक चपेट में आने से रेलवे दुर्घटना द्वारा होने मालूम पड़ती है.”

13. Even other witnesses like Sh. Bhola Sahni, Kalasiya Devi, who recorded their statements before GRP on 15.04.2018 have also averred the same facts that the deceased came in the whip of a moving train and died.
14. Applicants have alleged that the IO/GRP has played foul by recording wrong statement of the witnesses and recording wrong facts as to the incident. At the request of applicants' counsel,

IO/GRP Sh. Baljit Singh was summoned along with entire original record. The witness came present and was examined by the Tribunal and cross-examined by the applicant's counsel at length but nothing concrete could be extracted. He has denied the suggestion that he had already typed statements AW1/2 and RW1/A and that he had got right and left-hand thumb impression of Smt. Kalasiya Devi on blank papers and recorded statement of Sh. Batahu Sahni on the same.

15. On the other hand, respondent railway, in their written statement have categorically stated that the train No. 04532 by which the deceased was allegedly travelling on the fateful day, was not plying on 03.03.2018. Respondent railway have placed on record duly certified copy of the Train Signal Register (TSR) of railway station, Yamunanagar-Jagadhari in support of their contention. In view of the same, contention of the applicants that the deceased was travelling by train No. 04532 is falsified.
16. The Respondent railway have examined RW-1, Sh. Vinod Kumar, Loco Pilot of train No. 19325UP – Indore Amritsar Express, who has stated that ***on 03.03.2018, when the train was passing through Gate No. 97-C (Pansra Phatak) by blowing horn, then at a distance of around 500-600 meters from the said gate, near KM No. 209, suddenly one person who was crossing the railway line came across the engine of my train and got hit by my train and I am eye-witness to the said incident.*** He further informed ***that guard of the train went to see the deceased but he could not find any person and then after the instructions from the guard, the deponent drove the train for further journey. The information regarding the said incident was given to the***

station master, Yamunanagar through walky-talky and on reaching Ambala station, information in writing was given to the Station Master.

17. This witness was subjected to the cross-examination by the applicants' counsel. During cross-examination, this witness has stated that at the time of incident, speed of the train was approximately 107 kmph and the train consisted of 22=44 coaches. It is categorically stated by the witness that after applying the emergency brake, the train stopped at a distance of 700-800 meters from the place of incident. He has tendered in evidence copy of his Driver's Notebook as Ex. RW1/2 which reveals that at 16:16 hrs. one unknown person hit by the train at KM No. 209.
18. In light of the statement of the Loco Pilot, it is a candid clear case where the deceased was hit by a fast-moving train in the block section, while trying to cross the railway track.
19. In light of the documentary and oral evidence of the rival parties, it is proved on record that the deceased was not a passenger of any train much less a bonafide passenger and he has endangered his life by unauthorisedly trying to cross the railway track and was struck by engine of a fast-moving train and this incident does not fall under section 123(c)(2) of the Railways Act, 1989. Both these issues are, therefore, decided against the applicants and in favour of the respondent railway.

Issue No. 3:

20. In view of my findings on the aforesaid main issues No. 1 & 2, this issue has become redundant, hence, needs no findings.

Issue No. 4:

21. In view of my findings on the above issues, that the deceased was neither a bonafide passenger nor the incident causing death of the deceased is covered within the meaning of Section 123(c)(2) rather the same falls under the exceptional clause to the Section 124-A of the Railways Act, 1989, the applicants are not entitled to get any compensation. Accordingly, the claim application deserves dismissal and this issue is decided against the applicants. Accordingly, the claim application is dismissed.

ORDER

22. The present claim application, being devoid of merits, is dismissed with no orders as to the costs.
23. Registry is directed to send a free certified copy of this judgment directly to the applicant at his postal address mentioned in the claim application by Speed Post in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989 and after due compliance, the file be consigned to the Record Room.

Judgment pronounced, signed and sealed today i.e.14.08.2024

(Umesh Kumar Sharma)
Member (Judicial)
Chandigarh.