



रेल्वेदावान्यायाधिकरण
चंडीगढ़ पीठ; चंडीगढ़
**RAILWAY CLAIMS TRIBUNAL
CHANDIGARH BENCH; CHANDIGARH**

Claim Application: OA/II (u)/CDG/55/2024

CORAM: MR. UMESH K. SHARMA, HON'BLE MEMBER (JUDICIAL)

Date of filing: 14.05.2024.

Reserved on: 07.01.2025.

Date of Decision: 21.01.2025.

Kanta, aged about 66 years
Wife of Mangat Lal @ Mangat Ram
Resident of Aliwal Road, Telianwal,
P.O. Batala, District Gurdaspur, Punjab-143505.**Applicants**
Verses

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

Claim for Rs. 20,00,000/- along with interest

Appearances: Sh. Narender Kaajla, Ld. Counsel for the applicants.
Smt. Shivani Guleria, Ld. Counsel for the respondent.

निर्णय
JUDGEMENT

By Umesh K. Sharma, Member (Judicial)

1. The applicant has filed this claim application under Section 16 of the Railway Claims Tribunal Act, 1987 seeking compensation of Rs. 20,00,000/- along with interest for the death of Mangat Lal @ Mangat Ram in an untoward incident.
2. The brief facts as stated by the applicant in the claim application are that on 29.07.2023, her younger son (Raju) left her husband on platform after giving him journey ticket from Batala to Amritsar

and came back at home. After some time, information was received from the neighbour that her husband met with an untoward incident at the Batala Railway station. Upon this, her sons reached at the spot and came to know that her husband was waiting for the train at the platform. There was the announcement that the train which was coming from Pathankot and going to Amritsar is coming on the 2nd track. After this, the deceased came down from the platform and when he was crossing the railway track to board the train, which was coming on the 2nd track, he met with untoward incident with train No. 14633 UP (Amritsar to Pathankot) and died on the spot. Station memo was issued by Station Master and the matter was reported to the railway police. During the personal search, one railway journey ticket and cash of Rs. 130/- was recovered, thereafter, Post-mortem of the deceased was conducted. It is pertinent to mention here that there is one platform and two railway tracks (two railway lane) at Batala Railway Station and there is no foot over bridge or underpass to reach on the 2nd track. The applicant stated that she being the only dependent of the deceased is entitled for compensation claim in the claim application.

3. On receipt of the notice, the respondent Railway Administration appeared before the Tribunal and filed written statement and DRM's Report along with documents relating to the alleged incident. The respondent in the written statement denied the averments made by the applicant in the claim application and stated that the said incident is not covered under Section 123(c)(2) of the Railways Act. It was mentioned in the written statement that no untoward incident within the meaning of Section 123(c)(2) read with Section 124-A of the Railways Act,

1989 causing accident of the deceased has taken place. As per the facts mentioned in the petition that the deceased was crossing the track to board the other train, which was coming on the second track, shows that the deceased himself was negligent. As per the statement of the Loco Pilot, the train was at few kilometres away from the railway station and was yet to reach the railway station and prior to that one unidentified person in a hurriedly manner crossed the railway track. The Loco Pilot did exercise all the necessary cares and immediately applied the emergency brakes and stopped the train. The respondent stated that the deceased was not a bonafide passenger as no journey was ever commenced by the deceased as the said train was never boarded by the deceased person and being a trespasser no compensation can be awarded to the claimant as per the ticket journey was yet to be commenced. Thus, the present application is not maintainable and liable to be dismissed.

4. On 18.09.2024, Ld. Counsel for the respondent has very fairly admitted that the railway journey ticket bearing no. UAF 21322404(Ex. Batala to Amritsar) dated 29.07.2023 was recovered and the said ticket on verification was found to be genuine. In view of the admission, the bona fide of the deceased is not questioned. In view of the fair admission of the respondent railway, the issue relating to bona fide status of the deceased was dispensed with. On the basis of pleading of the parties, examination of the DRM's report and after hearing both the Counsels and following issues were formulated for adjudication:

- 1) *Whether the incident in question is covered within the ambit of 'untoward incident' as is defined under Section*

123(c)(2) read with Section 124-A of the Railways Act, 1989?

2) Whether the applicant is the only dependent of the deceased as defined under Section 123-B of the Railways Act, 1989?

3) Relief, if any?

5. In the evidence, Smt. Kanta (AW-1) filed her affidavit in examination-in-chief. She was cross-examined by Smt. Shivani Guleria, Ld. Counsel for the respondent-Railway on 11.11.2024. The applicant also filed following documents marked exhibit AW-1 to AW-4, as under:

1	Aadhar Card of Kanta	AW-1
2	PAN Card of Kanta	AW-2
3	Bank Passbook of Kanta	AW-3
4	Death Certificate of the deceased	AW-4

6. The respondent Railways have also filed DRM Report along with annexed documents the same was collectively marked as Exhibit R-1. In the evidence, Sh. Rajesh Kumar Meena, Loco Pilot filed his affidavit in examination-in-chief. He was cross-examined by Sh. Narender Kaajla, Ld. Counsel for the applicant on 12.12.2024.

FINDINGS

7. I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of applicant/respondent and heard the arguments advanced on behalf of rival parties by their Counsel. My findings on the aforesaid issues are as under:

Issue No.1:

8. Ld. Counsel for the applicant submitted that on 29.07.2023, the deceased with his younger son (Raju) reached on the platform. His younger son left him at the platform after purchasing the ticket (Ex. Batala to Amritsar) and came back at home. After that, the deceased heard the announcement that the train which was coming from Pathankot and going to Amritsar was coming on the 2nd track, therefore, the deceased crossing the track for going to platform no. 2 for boarding the train, got struck by a fast moving train and died on the spot. Ld. Counsel for the applicant submitted that the deceased was bona fide passenger, died in an untoward incident and the applicant being the only dependent of the deceased is entitled to compensation claim for in the claim application.
9. In contra, Ld. Counsel for the respondent submitted that no untoward incident within the meaning of Section 123(c)(2) read with Section 124-A of the Railways Act, 1989 causing accident of the deceased has taken place and vehemently argued that the deceased did not become victim of an 'untoward incident' since he was trying to cross the railway track unauthorisedly and became victim due to his own negligent act and conduct. It is further submitted by the counsel for the respondent that as per the facts mentioned in the petition that the deceased was crossing the track to board the other train, which was coming on the second track, shows that the deceased himself was negligent and as per the statement of the Loco Pilot, the train was at few kilometres away from the railway station and was yet to reached the railway station and prior to that one unidentified person in a hurriedly

manner was crossing the railway track. The Loco Pilot did exercise all the necessary cares and immediately applied the emergency brakes but incident occurred. Thus, the present application is liable to be dismissed.

10. In the Station Memo prepared by Station Master on 29.07.2023 at 10.00 hrs, it is mentioned in that:

"As reported by Guard Sh. Sudhir Kant Sharma (S.K. Sharma) of Train No. 14633 UP one tress passer run over and dead at Km 38/13-38/14 in Batala yard line No.2/platform line and handed over to GRP/BAT at 09:55 km."

11. It is clearly mentioned in the Form No. 25.35 that the cause of death of the deceased is railway accident.

12. In the Post-Mortem report, cause of death mentioned as:

"shock and haemorrhage due to severe of neck, which is necessarily fatal and sufficient to cause death in the ordinary course of nature."

13. As per the conclusion of the DRM's report mentions:

"... मंगत राम रेलवे लाइनों को क्रॉस करता हुआ गाड़ी संख्या-14633 UP की चपेट में आ गया था 1 जिस कारण उसकी मौके पर ही मृत्यु हो गई. . ."

14. As per performa for investigation officer (I.O.) of RPF, the cause of death is mentioned as:

"दिनांक- 29.07.2023 को मृतक मंगत राम रेल गाड़ी संख्या- 14633 UP रेलवे स्टेशन बटाला यार्ड के पास निचे आने से हुई थी 1"

15. Sh. Rajesh Kumar Meena, SSE/LOCO/ASR (RW-1), stated in his cross that:

"यह कहना सही है कि बटाला स्टेशन पर एक ही प्लेटफार्म है व दूसरी और जाने के लिए कोई फुटओवर ब्रिज नहीं है 1 बटाला स्टेशन पर दो लाइन्स हैं व दोनों लाइन्स पर पैसेंजर ट्रेन्स आ कर रुकती हैं"

16. Ld. Counsel for the applicant relied upon judgment of Hon'ble Jharkhand High Court in Suresh Ram and another v. Union of India (Jharkhand), (2024 (1) JCR 220), wherein it was held that:

“...due to negligence of Railway Department for not providing facility of foot over bridge and proper electricity light facilitating the passengers have no option but to cross the railway track. Providing amenities for safe journey, certainly comes within the legal liability of Railways. The Railways administration cannot take advantage of its own negligence in order to avoid liability to pay the compensation to the genuine claimants, who suffers risk of death due to no provision of foot over bridge”

17. In Rajwinder Kaor and others v. Union of India (2017 (1) JBCJ 219). Hon'ble High Court of Jharkhand allowing the appeal observed that:

“Since there was no foot-bridge, it was natural for the deceased to cross the railway track for boarding the train which was to arrive on the platform situated on the other side. It was due to the negligence of the railways that the deceased was constrained to cross the railway track for boarding the said train.”

18. Further, Division Bench, Delhi High Court in Rakesh Saini and others v. Union of India (2004 AIR Delhi 107), the Court opined that:

“The word ‘duty’ connotes the relationship between one party and another, imposing on the one an obligation for the benefit of that other to take reasonable care in the first instance. It was undoubtedly the duty of the respondents to provide for proper platform as well as over-bridge/subway to conform to standard of conduct for projection of passengers, having failed to discharge his duty respondents acted negligently. The court further held that it is defendant who was negligent and does not

a case where there should be any contradictory negligence on the part of the deceased. Appellants/therefore, shall be entitled to lay claim against the respondents.”

19. In view of the contention made by applicant, I find that it is obligatory on the part of respondent-railway to provide basic infrastructure for the passengers enabling them to purchase the tickets and safely reach the destined platforms in order to board the trains. In absence of any foot over bridge, passengers are compelled to cross the track which is otherwise unauthorised. In the present case, also the deceased was cross the track to board the train, which is coming on platform no. 2, while crossing, he was struck by a fast moving train. I am fortified in my views by the citations submitted by the applicant' counsel and have no hesitation to hold that the deceased was a victim of an 'untoward incident's defined within the precincts of Section 123(c)(2) read with Section 124-A of the Railway Act, 1989. Hence, issue no.1 is decided accordingly in favour of the applicant.

Issues No. 2 & 3

20. The case in hand has been filed before the Tribunal by Kanta (wife of the deceased) as the only dependent of the deceased. To prove the dependency, the applicant has filed her Aadhar Card. On the contrary, no evidence whatsoever has been adduced on behalf of the respondent to contradict the case of the applicant on the point of her dependence on the deceased. However, during her cross-examination before this Tribunal, applicant Smt. Kanta (wife of the deceased) has deposed that:

“... मेरे पति के आश्रितों में मेरे अतिरिक्त मेरे 5 बच्चे हैं, मेरी 3 बेटियां हैं जिनका नाम भोला, रजो व सीमा, मेरी तीन बेटियां शादी शुदा हैं, इसके अलावा मेरे दो

पुत्र है जिनके नाम रवि व राजू है मेरे दोनों पुत्रों की भी शादी हो चुकी है, इनके अलावा और कोई आश्रित नहीं है. . . 1”

Section 123(b)(i) of the Railways Act, 1989 deals with the dependency of the claimants/ applicants on the deceased passenger. It reads:

“Section 123(b)

- (i) *the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parents;*
- (ii) *.....”*

21. In view of the above provisions of the Act, all the three daughters and two sons of the deceased are held to be dependents of the deceased besides Smt. Kanta, wife of the deceased. Moreover, during the pendency of the claim application, none else appeared before the Tribunal, claiming himself/herself as dependent of the deceased.
22. Applying the principle laid down by the Hon’ble Supreme Court in Reena Devi’s case to the present case, it is held that the present applicants being the only dependent of the deceased within the meaning of section 123(b)(1) of the Railways Act, 1989, is entitled to get an amount of Rs. 8,00,000/- as compensation as prescribed under part 1 of the schedule apprehended to rule 3 (3) of the Railway Accident and Untoward Incident Compensation Rules, 1990 as amended on 22.12.2016 (with effect from 01.01.2017) along with an interest at the rate of 9% per annum from the date of incident i.e. 29.07.2023 till the date of award. All these issues are decided accordingly.

आदेश
ORDERED

23. The claim application of the applicants is allowed. The respondent Railway Administration is directed to pay Rs. 8,00,000/- to the applicants as compensation.

24. As regards disbursal of the amount of award, it may be seen that in Geeta Devi Vs Union of India, Delhi High Court has 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 for 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.

25. The Honourable High Court went on to lay down the mode of payment and in pursuance of the Orders passed by the Delhi High Court, Government of India has issued a Notification of 3rd June, 2020 amending Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, adding Rule 5 which reads as under: -

“5. Mode of payment—

5.1 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 as shall subserve justice.

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

5.3 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.

5.4 The orders dated 21st April, 2017, 24th May, 2019 and 6th November, 2019 of Hon'ble High Court of Delhi in FAO No. 22/2015 and CM Application No. 4501/2015 in Geeta Devi Vs Union of India, relating to disbursement of compensation shall be read as part of this Rule."

26. It is considered appropriate to distribute and disburse the amount as under:

<i>Name of the applicants/Dependents</i>	<i>Amount to be paid to the applicants immediately through ECS by NEFT/RTGS to the SB Accounts</i>	<i>Amount to be invested in fixed deposit scheme of Nationalized Bank and the interest accrued thereon to be credited to SB Account of the applicants.</i>
<i>Kanta (wife of the deceased)</i>	<i>Rs. 30,000 (Rupees thirty thousand only) along with accumulated interest.</i>	<i>Rs. 2,70,000/- (Rupees two Lakhs and seventy thousand Only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to her SB Account.</i>
<i>Radha Rani @ Bhola</i>	<i>Rs. 10,000 (Rupees ten thousand only) along with accumulated interest.</i>	<i>Rs. 90,000/- (Rupees Ninety thousand Only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to her SB</i>

		<i>Account.</i>
<i>Sunita @ Rajjo</i>	<i>Rs. 10,000 (Rupees ten thousand only) along with accumulated interest.</i>	<i>Rs. 90,000/- (Rupees Ninety thousand Only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to her SB Account.</i>
<i>Muskan @ Nimmi</i>	<i>Rs. 10,000 (Rupees ten thousand only) along with accumulated interest.</i>	<i>Rs. 90,000/- (Rupees Ninety thousand Only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to her SB Account.</i>
<i>Ravi Kumar</i>	<i>Rs. 10,000 (Rupees ten thousand only) along with accumulated interest.</i>	<i>Rs. 90,000/- (Rupees Ninety thousand Only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to his SB Account.</i>
<i>Raju</i>	<i>Rs. 10,000 (Rupees ten thousand only) along with accumulated interest.</i>	<i>Rs. 90,000/- (Rupees Ninety thousand Only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to his SB Account.</i>

27. The respondent Railway Administration is hereby directed to deposit the amount awarded with the Additional Registrar of this Tribunal within a period of 30 days from the date of communication of this judgment failing which the applicants

shall be entitled to further interest @ 9% per annum for the default period.

28. The applicants are hereby directed to submit the details of their Aadhaar linked Bank account of a Nationalized Bank mentioned in the schedule Annexure-I of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, situated nearest to their place of residence to the Additional Registrar of this Tribunal.
29. The Bank shall not permit any joint name(s) to be added in the saving bank account or fixed deposit account of the applicants i.e., the Saving Bank Account of the applicants shall be an individual Saving Bank Account and not a joint account.
30. The monthly interest be credited by Electronic Clearing System (ECS) in the said Saving Bank Account of the applicants.
31. The maturity amount of the FDRs be credited by Electronic Clearing System (ECS) in the Saving Bank Account of the applicants.
32. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.
33. The concerned Bank shall not issue any cheque book and/or debit card to the 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 freeze the accounts of the applicants so that no debit card be issued in respect of the accounts of the applicants from any other Branch of the Bank.

34. The Bank shall make an endorsement on the passbook of the applicants to the effect that no cheque book and/or debit card have been issued or will be issued without the permission of the Tribunal and the applicants shall produce the passbook with the necessary endorsement duly signed and stamped by the Bank before the Additional Registrar of this Tribunal. The Bank is further directed to permit the applicants to withdraw money from their Saving Bank Account by means of a withdrawal form only.
35. The Respondent Railway Administration is also directed to place on record the proof of deposit of the award amount with up-to-date interest, if any along with a calculation sheet and the same shall be filed with the Additional Registrar.
36. In the facts and circumstances of the case, there is, however, no order as to costs.
37. Registry is directed to send a free certified copy of this judgment directly to the applicants at their postal address mentioned in the claim application by Speed Post in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

Judgment pronounced, signed and sealed today i.e., 21.01.2025.

(Umesh Kumar Sharma)
Member (Judicial)
RCT, Chandigarh.

A.K.