

RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH, DELHI

**Mr. JUSTICE KANWALJIT SINGH AHLUWALIA, HON'BLE
CHAIRMAN**

**Mr. SYED NISHAT ALI, HON'BLE MEMBER TECHNICAL
NAGPUR (Circuit at Delhi)**

Case No. : OA/II(U)/DLI/104/2024
Date of filing : 21.02.2024
Date of Decision : 24.10.2024

1. Smt. Beant Kaur,
W/o Late Lakhwinder Singh.
2. Gurnaaz Kaur
D/o Late Lakhwinder Singh.
3. Pavneet Kaur
D/o Late Lakhwinder Singh.
4. Smt. Sarabjit Kaur,
W/o Sh. Prakash Singh.

All R/o
House no. 215, Sath Wali Gali,
Village Khunan Khurd,
Sri Muktsar Sahib, Punjab-152031

...Applicants

Versus

Union of India,
Represented through:
General Manager, North Central Railway,
Allahabad.

...Respondent

Claim for Rs. 8,00,000/- (with interest)

Sh. B.S Mahur, counsel for the applicant.

Ms. Jatinder Kaur, counsel for the respondent.

J U D G M E N T

Kanwaljit Singh Ahluwalia, Chairman (Oral) :-

1. Nayak Lakhwinder Singh of 17th Battalion, Punjab Regiment, departed on 13th January, 2024 from Secunderabad for annual leave of one month for going to his native place in Punjab, as per the verification report submitted by the respondent bearing diary number 2659 filed on 7th October 2024. It is the case of the applicants that Nayak Lakhwinder Singh on 13th January 2024, purchased a valid Railway journey ticket for undertaking journey from Secunderabad Junction to Hazrat Nizamuddin Railway Station, and having purchased the ticket, he boarded train No. 12721 Dakshin Superfast Express. For availing his annual leave, he had to go to his native house at Muktsar Sahib, Punjab. It is further case of the applicants that on the day Nayak Lakhwinder Singh (hereinafter called 'deceased') was travelling, the route between Agra Cantt and Mathura Junction was not operating, therefore, the train took a detour on the route of Tundla-Aligarh, and on 15th January 2024, when the said

train was going between Aligarh and Khurja Junction railway station, at Village Chuawali, the deceased fell from the train and suffered fatal injuries. The Civil Police, Police Station, Gabhana relayed an information to the family members of the deceased, who reached at the police station Gabhana and identified the dead body to be of Lakhwinder Singh, hereinafter called deceased.

2. The present claim application under Section 16 of the Railway Claims Tribunal Act has been filed by Beant Kaur widow, Gurnaz Kaur and Pavneet Kaur, daughters and Smt Sarabjeet Kaur, mother of the deceased, claiming compensation for the death of the deceased in an untoward incident.
3. Notice of the claim application was issued. The respondent filed written statement along with the statutory report of DRM, Ex. R-1. It would be apposite here to reproduce para 3 of the preliminary objections, wherein the following averments have been made: -

"3. That as per the enquiry report, it came on record that on dated 15.01.2024, the dead body of lakhwinder (deceased) has been found in mid of Mehrawal and Kulwa at KM no. 1335/19-21 near UP track. On personal search of dead body, 1 I-card, 2 canteen card, 2 ATM card, 1 Pen card, one leave certificate letter of Indian Army Commanding officer, Aadhar card alongwith Rs. 2900 has been recovered but there is no railway ticket/pass has been found of any journey, which clearly indicating that the deceased was not a bonafide passenger in the said fatal incident occurred. There was no eye witness for this incident, moreover the cause of this fatal incident is also not clear, hence here Railway is not responsible for this fatal incident occurred. Hence the claim of the applicant is liable to be dismissed." (Reproduced in verbatim)

4. We may highlight that in the above Para 3 of the preliminary objections, it is specifically stated that no railway ticket was found of any journey from the personal search of the deceased. In the statutory report of DRM, the following conclusion has been drawn: -

“निष्कर्ष:- घटना दिनांक 15.01.2024 की अग्रिम जाँच कार्यवाही के दौरान एकवित्त किये गये माध्य/पंचायतनामा पोस्टमार्टम रिपोर्ट तथा माई, मृतक के परिजन, मेट राधेश्याम के बयानों के आधार पर मृतक लखविंदर की हैड बॉडी महरावल कुलवा के मध्य किमी न 1335/19-21 के पास अप ट्रेक पर मिलने से घटना की पुष्टी हुई है। मौके पर पुलिस द्वारा पंचायतनामा की कार्यवाही के दौरान मृतक के पास यात्रा में सम्बन्धित कोई टिकट आदि दस्तावेज बरामद नहीं हुआ है। माडी मंख्या 12721 दक्षिण एक्स के गार्ड द्वारा घटना के बारे में कोई जानकारी नहीं होना बताया गया है। घटना का कोई प्रत्यक्षदर्शी गवाह नहीं है। अतः यह जांच में यह स्पष्ट नहीं है कि मृतक लखविंदर के साथ पटना किस प्रकार पटित हुई है।” (Reproduced in verbatim)

5. The Tribunal on 24th April 2024, formulated the following issues for adjudication: -

“1) Whether the deceased was a bona fide passenger of the train in question at the time of incident?

2) Whether there was any untoward incident as is defined under the provisions of Section 123(c) of Railways Act, 1989?

3) Whether the applicant(s) is/are dependent(s) of the deceased?

4) Whether the applicant(s) is/are entitled for any relief and interest as prayed for in the application?

5) Relief if any?”

6. Beant Kaur, wife of the deceased, appeared before the Tribunal. She tendered her affidavit towards examination. She was examined as AW-1. She was duly cross examined by Ms Jatinder Kaur, counsel for the respondent. She admitted that at the time of commencement of journey, her husband Nayak, Lakhwinder Singh was posted in the Indian Army at

Secunderabad. She is not an eyewitness of the occurrence, as on the day of occurrence, she was at the house of her in-laws at Sri Muktsar Sahib, Punjab. In her affidavit filed towards examination-in-chief, she specifically, in Para 5, stated as under: -

“5. यह कि मैं शपथ पूर्वक बयान करती हूं कि मेरे पति के पास एक रेल टिकट सिकंदराबाद ज० रेलवे स्टेशन (तेलंगाना) से हज़रतनिज़ामुद्दीन रेलवे स्टेशन तक का था जो घटना स्थल पर खो गया था मेरे पति कभी भी बिना रेल टिकट के यात्रा नहीं करते थे और घटना वाले दिन भी रेल टिकट लेकर ही यात्रा कर रहे थे।” (Reproduced in verbatim)

7. When the case was ripe for arguments, counsel for the applicant vide diary number 2369 on 4th September 2024 filed a *movement order* issued by Lieutenant Colonel, 3 Trg Bn, 1 EME Centre, C/o 56 APO.
8. The Tribunal on 5th September 2024 passed the following order: -

“Vide diary no. 2369 on 4th September, 2024, a document purported to be movement order of NK Lakhwinder Singh of 17th Battalion has been placed on record to demonstrate that on 13th January, 2024, the above said NK Lakhwinder Singh was granted leave and he departed from Secunderabad. Ms. Jatinder Kaur appearing for the respondent has submitted that prior copy of this document was not handed over to her. She prays for an adjournment to verify this document. Request is accepted.

Copy of this order under seal and signature of Court Master be handed over to Ms. Jatinder Kaur, Counsel for the respondent for onward transmission and compliance.

List for further proceedings and arguments on 26.09.2024”

9. Ms Jatinder Kaur, counsel for the respondent vide Dairy No 2659 on 7th. October 2024 filed a verification report, whereby the movement order, relied upon by counsel for the applicants, stands verified. The verification report dated 25th September 24 submitted to the office of Principal Chief Commercial Manager, North Central Railway, Allahabad, on behalf of the Commanding Officer, 3 Trg Bn, 1 EME Centre, C/o 56 APO reads as under: -

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"1. Please refer to your office letter No 68-C/Law/Accdt/RCT/1223/2024 dt 23 Sep 24.

2 It is intimated that the following documents in respect of Late Nk Lakwinder Singh have been issued by this Battalion during his attach period with this Training Battalion :-

(a) 3 Trg Bn, 1 EME Centre movement order No 23603/BHQ/Est-I dt 13 Jan 24

(b) 'T' Company, Leave Certificate dt 20 Nov 2023.

3. Hence, the same is verified as per records held with this office.

4. For your information and further necessary action please" (Reproduced in verbatim)

10. Today, we have heard Shri B.S Mahur, counsel for the applicant and Ms Jatinder Kaur, counsel for the respondent and have gone through the entire records.

FINDINGS: -

Issue Nos. 1 and 2: -

11. These two issues are inter connected and hence are being discussed together. After filing of the verification report, it is an admitted case of both the parties that on the evening of 13th January 2024, the deceased who was on duty at Secunderabad, on the said date, departed, as per the movement order, granting leave to him of one month from 15th January 24 to 13th February 24 with suffix of 14th January, being Sunday and the movement order specifically stated that the departure date and time is 13th. June 24 A/N. It is also an admitted fact that on the intervening night of 14th and 15th January 2024 at 12:10 afternoon, a memo was sent

by station superintendent, Mehrawal to Mate Merawat, to the effect that one person has been cut by an unknown train. It is also admitted that the timing of the finding of the dead body reconciled with the passing of the train No. 12721 Dakshin SF Express. The respondents also recorded the statement mate Radhey Shyam, who stated that they were doing maintenance work on the Dn Line after train number 12721 Dakshin Express passed on the track, one person was found cut into two pieces. It will be apposite here to reproduce here Para-2 of DRM report:-

“2.दिनांक 15.01.2024 को MCR/TDL की सूचना प्राप्त हुई कि महारावल कुलब के मध्य निमी न 1335/19-21 के पास अप ट्रैक पर एक व्यक्ति कटा हुआ पड़ा है अटेंड कर उचित कार्यवाही करें। उक्त सूचना के अनुपालन में HC श्रीनिवाम शर्मा रेलवे सुरक्षा बल पोस्ट अलीगढ़ में रवाना होकर घटना स्थल पर पहुंचे तो मौके पर मेड राधेज्याम MOB-7518704286 मौके पर मिले मैट राधेश्याम द्वारा बताया कि हम डाउन मैन लाइन पर मेंटेनेंस का कार्य कर रहे थे एक व्यक्ति ट्रेन नंबर 12721 दक्षिण एक्सप्रेस के निकलने के बाद ट्रैक पर कटा हुआ मिला जिनकी सूचना मेरे द्वारा ही स्टेशन मास्टर कुलवा को दी मैंने मौके पर समय 13:00 बजे निविन पुलिम गभाणा 51 कुंवर पान सिंह MOB 8219304399 मय स्टाफ के बाए डेड बॉडी का मौका मुआयना किया व जामा तलाशी ली गई तो मृतक के पास एक आई कार्ड, 2 कैंटीन कार्ड 2 ATM 01 पैन कार्ड एक भारतीय सेना कमांडिंग ऑफिसर सिकंदराबाद का लीव प्रमाण पत्र, नाधार कार्ड नगद 2900 रुपये जिसके आधार पर मृतक का नाम लविन्द्र सिंह पुत्र प्रकाश सिंह उम्र 32 वर्ष निवासी कुन्न खुर्द थाना कोटभाई जिला मुक्तसर साहिब पंजाब वाद 51 कुंवर पाल द्वारा मौके की कार्रवाई करने के उपरांत डेड बॉडी को अग्रिम कार्रवाई हेतु। अपने साथ ने गए उपरोक्त घटना के संबंध में स्टेशन मास्टर महरवाल द्वारा प्ररूप 01 जारी किया गया” (Reproduced in verbatim)

12. In view of the above, it is case of the respondent that the deceased was travelling in the train, and immediately after the train passed from the place of occurrence, a Railway staff had found a dead body. Thus, it can be safely inferred that the deceased has died as a result of fall from the train and an *untoward incident* is made out. In the written statement and the report of DRM filed on record, it is stated that no ticket was found. In consonance with the observations made by the Hon'ble Supreme Court in

Union of India versus Rina Devi (2018 ACJ 1441), Beant Kaur, wife of the deceased filed an affidavit, Para 5 of which we have reproduced earlier, wherein she has specifically stated that her husband was a bonafide passenger as he use to travel after purchasing ticket. In the case of Rina Devi (supra), the Hon'ble Supreme Court has held as under: -

“17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that the 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 bona fide 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 circumstances. 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.”

13. We also find in the panchayatnama, which is at page 19 of the DRM report exhibit R-1, wherein, it is specifically stated under column list of property found from the dead body, or nearby that a cash of Rs 2900/-, one train ticket, two canteen cards, one credit card, a PAN card, a driving license, an identity card and one Aadhar card etc. were found. At page 18 of the DRM report, regarding the goods recovered from the dead body, under heading सामान शव, it is also noticed that one old ticket was also found. No efforts have been made by the investigating officer, who conducted the investigation for preparation of DRM Report by as per the Railway Passengers (Manner of Investigation of Untoward Incidents)

Rules, 2020, to obtain a copy of the ticket from the concerned Civil Police, who had prepared the panchnama. Thus, the ticket recovered from the dead body which may justify the assertion made by Beant Kaur, wife of the deceased was not probed to the logical conclusion. Even otherwise, on the touchstone of the observations made by the Hon'ble Supreme in Rina Devi (Supra), the deceased can be safely termed as a bonafide passenger of the train in question at the relevant time of the incident. Hence, Issue Nos 1 and 2 are decided in favour of the applicants and against the respondent.

Issue No. 3: -

14.The applicants have filed on record the attested copies of their Aadhar Cards including the Aadhar Card of the deceased Nayak Lakwinder Singh. The same proves the relationship of the applicants with the deceased. Thus, the applicants, being wife, mother and two minor daughters of the deceased, are held to be the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act, 1989.

ORDER

15.Hence, the claim application is allowed and the respondents are directed to pay a sum of Rs.8,00,000/- (Rupees eight lakhs only) to the applicants along with 9% simple interest from the date of incident till today. Respondent is directed to pay the amount of compensation in the suitor's

money account of the Principal Bench of this Tribunal at Delhi within one month from date of receipt of certified copy of this order, failing which, they will be liable to pay simple interest @ 9% per annum for any subsequent delay.

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

17. We may notice 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. Earlier, this Court has involved 21 Nationalised 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 vs 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 as 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 litem 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 disbursement 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.”

In pursuance of the orders passed by the Delhi High Court, recently, Government of India has issued a Notification of 3rd June, 2020 amending Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, amending 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.”

18. Therefore, relying upon the judgement rendered by the Delhi High Court in the case of Geeta Devi (supra) and in pursuance of Rule 5 quoted above, in the present case, the amount of award along with the interest shall be disbursed in the following manner: -

19. From out of the total compensation amount of Rs 8,00,000/- (Rupees eight lacs only), Applicant No. 1 Smt. Beant Kaur, wife of the deceased, shall receive Rs. 3,50,000/- (Rs Three lacs fifty thousand only) and applicant nos. 2 and 3, Gurnaaz Kaur and Pavneet Kaur, minor daughters of the deceased, shall receive Rs. 2,00,000/- (Rs. Two lacs only) each and

applicant no. 4, Smt. Sarabjit Kaur, mother of the deceased, shall receive Rs. 50,000/- (Rs. Fifty Thousand) with accrued interest.

20. 10% of the respective shares of the applicant Nos. 1 & 4 along with proportionate interest shall be released forthwith by ECS/NEFT transfer to their respective savings bank accounts. Rest of their shares together with accrued interest, if any, shall be invested in respective FDRs for a period of three years in their names in a Nationalised Bank, near to the place of their residence, with monthly payment of accrued interest to them.
21. As regards the amount of compensation payable to applicant nos. 2 and 3, Gurnaaz Kaur and Pavneet Kaur, minor daughters of the deceased, the amount of Rs. 2,00,000/- (Rs. Two Lacs only) each, payable to them along with proportionate interest shall be invested in FDRs in their respective names under the guardianship of their mother, Smt. Beant Kaur in a nationalised bank, near to the place of their residence for the period till they attain the age of 18 years respectively with monthly payment of accrued interest to applicant No. 1 for the maintenance and welfare of her daughters. On maturity, the amount payable along with accrued interest, if any, shall be credited to the bank account of applicant Nos. 2 and 3 to be furnished by their mother and upon due verification by Additional Registrar/Principal Bench/Delhi.
22. Addl. Registrar, Railway Claims Tribunal, Principal Bench Delhi will verify the details of the bank account of the awardee before making

payment. Further to that, the bank should also be directed not to allow any loan, advance, withdrawal or premature discharge on the fixed deposit without permission of the Tribunal.

23.The bank account should be in a Nationalised Bank near their place of permanent residence.

24.The application is allowed in the above terms. No order as to costs.

(Syed Nishat Ali)
Member (Technical)
RCT/Nagpur @ RCT/DLI

(K.S. Ahluwalia)
Chairman