

RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH, DELHI

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

**Mr. MUKESH NIGAM, HON'BLE VICE CHAIRMAN
(TECHNICAL), ALLAHABAD (Circuit Bench at Delhi)**

Case No. : OA/II(U)/DLI/192/2024
Date of filing : 23.04.2024
Date of Decision : 05.11.2024

1. Smt. Prem Lata,
W/o Late Sh. Adal Singh.
2. Smt. Rohini Tewatia,
W/o Sh. Arvind Sharma.
3. Sh. Azad Singh,
S/o Sh. Adal Singh.
4. Sh. Ranjay Singh Tewatia
S/o Sh. Adal Singh.

Applicant Nos. 1 and 4, R/o
Near Water Pump Number 13,
Raipur Khurd,
Behlana, Chandigarh-160003.

Applicant No. 2, R/o
410, Dashmesh Colony,
Near Dashmesh Gurudwara,
Balongi, SAS Nagar (Mohali) - 160055

Applicant No. 3, R/o
68, Raipur Khurd,
Chandigarh-160003

... Applicants

Versus

Union of India,
Represented through:
General Manager, Northern Railway,
Delhi

...Respondent

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

Smt. Ashima Sood, Counsel for the applicant.

Smt. Leelawati Suman, Counsel for the respondent.

J U D G M E N T

Kanwaljit Singh Ahluwalia, Chairman (Oral) :-

1. The present claim application under Section 16 of the Railways Claims Tribunal Act has been filed by Smt. Prem Lata widow, Rohini Tewatia daughter, Azad Singh and Ranjay Singh Tewatia, two sons of Adal Sinjgh, who as per the pleaded case of the applicants, on 16 December 2023, while undertaking journey from Ambala to New Delhi in train no. 14682 Jalandhar-New Delhi Express, fell at Shivaji Bridge Railway Station and suffered grievous injuries, which proved fatal. It is further pleaded in the claim application that Adal Singh (hereinafter called ‘*deceased*’) was having a PNR railway journey ticket bearing no. 2106749816. It is admitted by the

respondent that the deceased was a bonafide passenger as he was having a valid railway journey ticket authorising him to travel in the above said train.

2. Upon notice issued, in the written statement filed by the respondent, in preliminary objection no. 1, it is submitted that the above said ticket was got verified, however, the respondents have taken stand that train no. 14682 Jalandhar-New Delhi Express had no stopover at Shivaji Bridge Railway Station and when the train had a through pass, in an attempt to deboard from the train, the deceased came between the platform and the railway track and suffered amputation of his arm from the shoulder and the said injury proved fatal. Thus, according to the respondent, the deceased himself acted imprudently and was callously negligent, and thus, no *untoward incident* is made out.
3. On the basis of the written statement filed and the fair stand taken by the respondent Railway, on 5th August 2024, we had passed following order :-

“We find from the records that the written statement along with the report of DRM has already been filed. We direct the Court Master to assign exhibit R-1 to the report of DRM. Smt. Leelawati Suman has read para 1 of the preliminary objections to contend that the deceased was a bonafide passenger. We reproduce para 1 of the preliminary objections hereunder:-

“1. That the claim filed by the applicants is not maintainable in the eyes of the law because the respondents cannot be held responsible for the incident as it came on record that on 16.12.2023, the deceased was traveling from Ambala to New Delhi by train no. 14682. As per the statement of the Eyewitness, Sh. Jagat Kishor the on-duty RPF, New Delhi, the deceased while trying to deboard from the running train, he fell between the train and the platform, when the said train no. 14682 New Delhi Inter City Express, was passing through Platform No. 02 of Shivaji Bridge Railway Station at about 13:35 Hrs. Therefore, the incident in question happened with the deceased due to his own negligence. Hence, the Railway department is not responsible for the said incident.

Though the Railway Ticket PNR No. 2106749816 recovered from the deceased is duly verified. But, despite the detailed investigation no negligence or fault on the part of the Railway has been discovered. Therefore, the claimant is not entitled to get any kind

of compensation for the said incident. Hence, the claim petition is liable to be dismissed.”

In view of the very fair stand taken by counsel for the respondent that the deceased was a bonafide passenger; no issue on this score is formulated. Having heard counsel for the parties, we have gone through the pleadings and the report of DRM, we formulate following issues for adjudication:-

- 1) Whether there was any untoward incident as is defined under the provisions of Section 123(c) of Railways Act, 1989?*
- 2) Whether the applicant(s) is/are dependent(s) of the deceased?*
- 3) Whether the applicant(s) is/are entitled for any relief and interest as prayed for in the application?*
- 4) Relief if any?”*

4. In the DRM report exhibit R-1, which is based on the investigation carried by Anil Kumar, Sub-Inspector RPF, New Delhi Railway Station Post, the deceased made an attempt to deboard from the train, in which he was travelling when the above said train was passing slowly and having a through pass at Shivaji Bridge Railway Station. The above said investigation was forwarded by Divisional Security Commissioner, Northern Railway, to Delhi Division and was approved by DRM wherein following conclusion was drawn :-

“निष्कर्ष:- समस्त साक्ष्यो एवं गवाहो के बयानो से स्पष्ट है कि दिनांक 16.12.2023 को मृतक गाड़ी सं. 14682 में रिजर्व आरक्षित ई-रेलवे टिकट PNR No.2106749816, अम्बाला से नई दिल्ली की टिकट पर यात्रा कर रहा था। घटना के चश्मदीद गवाह ऑन ड्यूटी श्री जगत किशोर/है.का./र.सु.ब./नई दिल्ली के अनुसार गाड़ी सं. 14682 नई दिल्ली इण्टर सिटी एक्सप्रेस शिवाजी ब्रिज रेलवे स्टेशन के प्लेटफार्म सं. 02 से समय करीब 13.35 बजे थ्रू पास हो रही थी तो एक व्यक्ति उक्त चलती गाड़ी से उतरने के प्रयास में गाड़ी व प्लेटफार्म गैप के बीच में गया। अतः मृतक चलती हुई गाड़ी से लापरवाहीपूर्वक उतरने के प्रयास में स्वयं की गलती के कारण गाड़ी व प्लेटफार्म गैप के बीच आकर मृत्यु को प्राप्त हुआ। प्रस्तुत रेल आरक्षित टिकट का सत्यापन कराने पर टिकट जारी होना पाया गया।” (Reproduced in verbatim)

5. After the issues were drawn, Prem Lata, widow appeared before the Tribunal. She tendered her affidavit towards the examination-in-chief. She was examined as AW-1. She was duly cross-examined by Ms. Lilawati Suman, counsel for the respondent. In cross-examination, she stated that she

has studied up to 10th class, she can append her signatures. She further stated that she had neither seen the occurrence nor her husband purchasing the ticket nor boarding the train nor falling from the train.

6. **The only significant question raised before us is whether the deceased fell from the train or made an attempt to disembark from the train which had a through pass at Shivaji Bridge Railway Station.**
7. To answer the above question and Issue no.1, we have heard Smt. Ashima Sood, counsel for the applicant and Ms. Leelawati Suman, counsel for the respondent.

FINDINGS: -

Issue No. 1 : -

8. Certain documents are very material which throw light to answer the questions posed before us. At page no. 22 of the claim application, general diary bearing no. 0075-A recorded on 16.12.2023 at 23:09:44 hours is annexed. In the opening lines of this general diary, it is recorded as under :-

GD Brief: इस समय मैं ASI VIDE DD NO. 36A Dt-16/12/2023 PCR call से वापिस हाजिर थाना आया हूँ व दर्ज है कि PF No.02 Shivaji Bridge Railway Station पहुंचा जहां मौका पर RPF HC Jagat Kishor RPF NDLS व HC Dinesh No.564/RLY हाजिर मिले जिन्होंने बताया की एक व्यक्ति Train No. 14682 से गिरकर एक आदमी घायल हो गया जिसके हाथ कट गये। जिसकी मौका पर मृत्यु हो गई। (Reproduced in verbatim) (Extract from General Diary)

9. It is evident from the above said general diary that the initial spontaneous information recorded is that the deceased had fallen from the train. Now, we shall revert to the documents which are part of the DRM report exhibit R-1.

Sub-Inspector Anil Kumar Teotia, in the investigation report concluded as under :-

“दावा फाइल में दर्शाये गये रेल आरक्षित ई-टिकट PNR NO- 2106749816, From UMB To NDLS, दिनांक 16.12.2023 का सत्यापन रे०सु०ब / प्रबल शाखा/पी०के० रोड/नई दिल्ली से कराया गया तो, उक्त टिकट दिनांक 15.12.2023 को समय 22:21:05 बजे जारी होना पाया गया है, जो यात्रा के अनुरूप वैध है।

अतः श्रीमान जी उक्त मृतक व्यक्ति अदल सिंह गाडी सं० 14682 से गाडी के शिवाजी ब्रिज रेलवे स्टेशन से धीरे-धीरे थु पास होने के दौरान चलती गाडी से लापरवाही पूर्वक प्लेटफॉर्म सं० 02 पर उतरने के प्रयास में ट्रेन व प्लेटफॉर्म गैप के मध्य आकर दुर्घटनाग्रस्त होकर मृत्यु होना पाया गया है।” (Reproduced in verbatim)

10.The material document for us is Form no. 1 filed under Rule no. 4 of Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2020 by the Station Master Northern Railway New Delhi on the next date of occurrence i.e. 17.12.2023 wherein column no. 6 (छ), it is recorded “GRP द्वारा प्राप्त मेमो के अनुसार व्यक्ति गाडी संख्या 14682 से CSB स्टेशन पर गिरकर घायल हुआ” .On the date of occurrence on 16.12.2023 at 16:35 hours, there is a copy of DCR recorded in the RPF Daily Diary Register, Post New Delhi, wherein, it is recorded that Head Constable Jagat Kishor on 16.12.2023 between 08:00 hours to 16:00 hours had his duty at Shivaji Bridge Railway Station, and at 13:35 hours, train no. 14682 had a through pass at Shivaji Bridge Railway Station and he was patrolling at the platform when some passengers informed that one passenger while deboarding from the train no. 14682 fell between the platform and the train and suffered injuries. Thus, as per the initial record maintained by GRP, the deceased had fallen from the train, whereas, in the daily diary register recorded at RPF Post, Head Constable was informed by some passengers that the deceased while

attempting to deboard from the train, which had a through pass, suffered injuries. Admittedly, as per all the documents recorded till 17.12.2023 i.e. the next date of occurrence, Head Constable, Jagat Kishor was not an eyewitness of the occurrence and the information recorded in the daily diary at RPF Post was based on the hearsay evidence as relayed by some passengers whose names have not been quoted. During the investigation, statement of Head Constable Jagat Kishor was recorded on 6th June 2024 after more than six months of the occurrence, wherein he was introduced as an eyewitness to take a stand that the deceased made an attempt to deboard from the train which had a through pass and suffered injuries. To us, this is an attempt to improve the initial version in favour of the respondent Railway. Head Constable Jagat Kishor has not been examined by the respondent. Any statement made during investigation cannot be relied upon as the same can only be used to confront the witness. Furthermore, it is the own case of the investigating officer of RPF that the deceased made an attempt to deboard from the train when the train was passing at a slow speed. In *Union of India vs. Rina Devi (2018 ACJ 1441)*, the Hon. Supreme Court has observed as under:-

“16.6 We are unable to uphold the above view as 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’. We may in this connection refer to judgment of this

Court in United India Insurance Co Ltd., versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on 'no fault theory' under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor."

11. After hearing counsel for the parties, we are of the view that there is firm and categorical stand of the respondent in the initial spontaneous version that the deceased had fallen from the train. It was later that a version was introduced that deceased made an attempt to deboard from the train. This was material improvement and was as an afterthought. Furthermore, the said witness Head Constable Jagat Kishor has not been examined. A statement made during investigation cannot be read, as the same is not a substantive piece of evidence. Thus, taking the totality of the circumstances, we have no hesitation to hold that the deceased was a bonafide passenger in the present case and his death has taken place as a result of an *untoward incident*. These issues are answered accordingly.

Issue no. 3

12. The deceased was the only bread earner of the family. The widow was totally dependent on him whereas we find that the daughter Rohini Tewatia and two sons namely, Azad Singh and Ranjay Singh Tewatia are aged 33 years, 30 years and 29 years respectively. They have grown up in their lives

and can fend for themselves. The applicants have filed on record the attested copies of Aadhar Cards of Smt. Prem Lata, wife of the deceased, Rohini Tewatia, daughter of the deceased, Azad Singh and Ranjay Singh Tewatia two sons of the deceased, including the Aadhar Card of the deceased Adal Singh. The same proves the relationship of the applicants with the deceased. Thus, the applicants, being wife and three children, are held to be the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act, 1989.

ORDER

13. Hence, the claim application is allowed and the respondents are directed to pay a sum of Rs. 8,00,000/- (Rupees eight lacs only) to the applicant 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.
14. So far as disbursement of the amount of award is concerned, we have heard the learned counsel for the parties.
15. 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."

16. 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: -

17. From out of the total compensation amount, Applicant No. 1 Smt. Prem Lata, wife of the deceased shall receive Rs. 5,00,000/- (Rs five lacs only) and applicant nos. 2 to 4, children of the deceased, shall receive Rs. 1,00,000/- (Rs. One lac only) each with accrued interest.

18. 10% of the respective shares of all the applicants along with proportionate interest shall be released forthwith by ECS/NEFT transfer to their respective savings bank account. 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 Nationalized Bank, near to the place of their residence, with monthly payment of accrued interest to them.

19.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. The bank account should be in a Nationalized Bank near their place of residence and should be compliant with GSR 347 at 03.06.2020.

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

(Mukesh Nigam)
Vice Chairman (Technical)
RCT ALD @ Delhi

(Kanwaljit Singh Ahluwalia)
Chairman