

रेलवे दावा न्यायाधिकरण

RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH, DELHI

HON'BLE SH. KANWALJIT SINGH AHLUWALIA, CHAIRMAN

HON'BLE SH. RAVINDER GOYAL, MEMBER (TECHNICAL)

Claim Application No. : OA/II/U/DLI/205/2024

Date of Filing : 25.04.2024

Reserved on : 17.07.2025

Date of Decision : 28.07.2025

1. Smt. Indrani, W/o Late Sh. Shukuru
(Widow of deceased)
2. Sh. Shiv Pujan, S/o Late Sh. Shukuru
(Son of deceased)
3. Dheeraj, S/o Late Sh. Shukuru
(Son of deceased)

Applicant no. 1, 2 & 3 R/o- Village Hatawa,
P.S. Mau, Dist. Chitrakoot,
Uttar Pradesh-210209.

4. Smt. Raj Kumari W/o Sh. Gyani
(Married daughter of deceased)

R/o- Om Kunj Colony,
Dadri, Gautam Budh Nagar,
Uttar Pradesh-203207.

.....APPLICANT/s

Versus

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

..... RESPONDENT

Claim for Rs. 8,00,000/- along with accrued interest

Appearances:

Sh. B.S. Mahur, Counsel for the Applicant.

Sh. Mohit Sharma, Counsel for the Respondent.

J U D G M E N T

By Ravinder Goyal, Member (Technical)

1. The present claim petition has been filed by the applicants 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 railways on account of death of Sh. Shukuru (hereinafter stated to be 'the deceased') in an averred untoward incident while traveling by a train.
2. The brief facts of the case, as stated by the applicants in Annexure of their claim application are reproduced hereunder in verbatim:

“घटना का संक्षिप्त विवरण मृतक शुकुरु दिनांक-08.03.2024 की शाम को सहयात्री अपनी पत्नी इन्दरानी के साथ रेलगाडी सं०-12427 रीवा एक्सप्रेस में रेल टिकट सं०-85681904 लेकर मानिकपुर ज० रेलवे स्टेशन से आनंद विहार टर्मिनल रेलवे स्टेशन तक की यात्रा कर रहा था कि अचानक यात्रा के दौरान दिनांक-09.03.2024 की सुबह दादरी रेलवे स्टेशन के पास चलती रेलगाडी से गिर गया और घटना स्थल पर ही मृत्यु हो गयी मृतक की पत्नी गाजियाबाद जंक्शन पर रेलगाडी

रुकने पर रेलगाडी से उतरकर वापिस दादरी पहुंची और शव की शिनाख्त की थी उक्त घटना के घटित होने में मृतक का कोई दोष नहीं था।” (Reproduced as Verbatim)

3. Notice of the claim application was issued to the respondent Railway.

The respondent filed the written statement along with the statutory report of DRM Ex. R-1. We reproduce herein under Para 4 of the

Preliminary Objections of the written statement:-

4. That in the present matter, the preliminary enquiry was conducted and the evidences and statements were collected. According to the statement of Deputy Station Superintendent of Dadri Railway Station, on 09.03.2024 at around 07:36. Loco Pilot of Train no. 12312 Kalka Mail informed him about an MRO at KM No. 1413/20. After receiving the above said information Deputy Station Superintendent and MCR/TDL issued memo. According to the statement of Loco pilot of Train no. 12312 Kalka Mail, on 09.03.2024 his duty was in Train no. 12312 Down as a Loco Pilot from Delhi to Tundla, during operation when the said train reached between Dadri and Ajaibpur Railway Stations at KM No. 1413/20, a person suddenly came in front of the said Train, he was using his mobile, Loco Pilot continuously blew the whistle horn and also applied the brakes but the person collided with the engine. That the Loco pilot stopped the said Train at KM No. 1412/22 and checked the engine and it was found to be normal. Loco pilot informed to the Deputy Station Superintendent. Guard and TLC/TDL about the said incident. During jamatalashi one railway ticket bearing no. UCC 85681904 EX-Manikpur to Anand Vihar Terminal and an Aadhar card was found. That the deceased was not a Bonafide Passenger, however the incident is not an untoward incident. Therefore, there is no fault of the railway administration in the above incident.

(Reproduced as Verbatim)

4. Based upon the above and the pleadings of the parties, following issues were framed by the Tribunal for adjudication on 05.05.2025 :-

- 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?*
5. Smt. Indrani, wife of the deceased and also the co-passenger of the deceased, appeared before the tribunal on 28.11.2024 as AW-1. She was duly cross examined by Sh. Mohit Sharma, counsel for the respondent.

FINDINGS

6. We have perused the records made available on behalf of the applicants and the respondents by their respective counsels, heard the arguments advanced by them and have gone through the pleadings and our findings on the issues are as under: -

Issues No. 1 :-

7. During Jamatalashi, a railway journey ticket bearing no. UCC 85681904 Ex. Manikpur to Anand Vihar Terminal was found from the possession of the deceased.
8. Further, the verification of this ticket bearing no. UCC 85681904 was got done by the Investigating Officer i.e. Post Commander, RPF, Post/NCR/Dadri. On verification this ticket was found to be genuine and had been issued from window no. 6 of Manikpur Station at 14:00 hrs. on 08.03.2024 i.e. on the averred date of travel of deceased. The ticket was recovered during the Jamatalashi and the recovered ticket has been verified to be genuine and authentic, however, this ticket authorised the deceased to travel in train No. 12427 Riva Express, but in present case deceased collided and was hit by train No. 12312 commonly called Kalka Mail of which he was not a passenger and furthermore in this case occurrence took place after the deceased deboarded at Dadri and was crossing railway lines. In the facts and circumstances of the case applicant cannot be termed as bonafide passenger. Hence, issue No 1 is decided against the applicants and in favour of the respondent.

Issues No. 2 :-

9. In the investigation done by the respondent Railway following conclusion has been drawn in the subject case:

“श्रीमान जी पटना दिनांक-09.03.2024 कि, की गई अग्रिम जाँच के दौरान एकत्रित दस्तावेजी साक्ष्यों के आधार, एवं घटना के प्रत्यक्षदर्शी गवाह गाड़ी संख्या 12312 कालका मेल के चालक कमलेश कुमार मीना मुख्यालय टूंडला के बयान से स्पष्ट होता है कि मृतक शूकरु की मृत्यु अनाधिकृत रूप से ट्रेक पर मोबाईल से बात करते हुए इंजन में टकराने से हुई है।”

(Reproduced as Verbatim)

This conclusion has been drawn on the basis of the statement of the Loco-Pilot of the train no. 12312, one Sh. Kamlesh Kumar Meena by which the deceased was run over.

10. Further, the memo issued by the Dy. SS, NCR Dadri to RPF/GRP/DER at 07:30 hrs. on 09.03.2024 states as under:

“आपको सूचित किया जाता है कि 12312 कालका मेस से किमी नं. 1413/20 पर MRO हो गया है। इसकी सूचना लोको पायलट ने दिया है। कृपया उचित कार्यवाही करें।”

(Reproduced as Verbatim)

11. In the subject case the RPF Diary Book entry on the date of incident is as under:

“..... के रूप में हुई। मौके पर मृतक के परिजन पत्नी तथा पुत्र मिले जिनके द्वारा बताया कि परिवार के साथ गाड़ी संख्या 12427 रीवा Exp में मनिकपुर से ANVT की यात्रा कर रहे थे। गाड़ी के दादरी होम सिग्नल पर रुकने पर परिवार सहित उतरे थे तथा लाइन पर करते समय उनके पिता गाड़ी संख्या 12312 up कालका एक्सप्रेस की चपेट में आने के कारण मौके पर मृत्यु हुई। सिविल पुलिस द्वारा मौके की कार्यवाही कर डेड बॉडी को कब्जे में लिया....”

12. In the Naksha Najri prepared by the Investigating Officer, the body of the deceased is shown to have been found at KM 14-30/20 next to down line i.e. on the line going on the opposite side of the line on which the deceased was travelling. Between the line near which the body of the deceased was found and the line on which the deceased was travelling, there is another line i.e. a third/middle line.

13. The wife of the deceased and the fellow co-traveler appeared as applicant witness. She presented her affidavit and was examined as AW-1 on 28.11.2024 and was duly cross-examined by the respondent counsel. In her affidavit filed before the Tribunal in Para 3 & 4, she stated as under:

“3. यह कि मैं शपथपूर्वक बयान करती हूँ कि मैं तथा मेरे पति शुकुरु दिनांक-09.03.2024 को रेलगाडी स०-12427 रीवा एक्सप्रेस रेलगाडी द्वारा वैध मेल एक्सप्रेस रेल टिकट स०-85681904 मेरा तथा मेरे मृतक पति का लेकर मानिकपुर ज० रेलवे स्टेशन से आनंद विहार टर्मिनल रेलवे स्टेशन तक की यात्रा कर रहे थे रेलगाडी में अत्यधिक भीड़ थी मैं तथा मेरे पति रेलगाडी के कोच के दरवाजे पर ही खड़े थे कि अचानक रेलगाडी अजायबपुर व दादरी रेलवे स्टेशन के बीच खडी हो गयी रेलगाडी खडी होने के बाद कुछ यात्री रेलगाडी से उतरकर खड़े हो गये और जब रेलगाडी ने चलने के लिए हार्न बजाया रेलगाडी से निचे उतरे सहयात्री हडबडी में रेलगाडी में चढ़ने लगे तभी मेरे बुजुर्ग पति चलती रेलगाडी से गिर गये और बचने के प्रयास में दिल्ली ओर से आ रही रेलगाडी की चपेट में आ गये और घटना स्थल पर ही मृत्यु हो गयी उक्त घटना के घटित होने में मेरे पति का कोई दोष नहीं था अपने पति को रेलगाडी से गिरते हुये मैंने देखा था।

4. यह कि मैं शपथपूर्वक बयान करती हूँ कि मैं तथा मेरे पति दिनांक-08.03.2024 को मानिकपुर ज० से रेलगाडी स०-12427 रीवा एक्सप्रेस द्वारा आनंद विहार जाने के लिए सवार हुये थे और दिनांक-

09.03.2024 की सुबह जब रेलगाड़ी गाजियाबाद की ओर जा रही थी तभी रेलगाड़ी अचानक अजायबपुर व दादरी स्टेशन के बीच रुककर चलने के लिए हार्न बजाया तभी सहयात्रियों की भीड़ के कारण मेरे पति चलती रेलगाड़ी से निचे गिर गये और तभी दिल्ली दिशा की ओर से आ रही एक्सप्रेस रेलगाड़ी की चपेट में आकर यह घटना घटित हो गयी मैं विकलांग होने के कारण उतर नहीं सकी और जब रेलगाड़ी गाजियाबाद ज० पर आकर रुकी मैं वहाँ उतरकर घटना स्थल पर पहुंच थी और शव की शिनाख्त मेरे द्वारा अपने पति शुकुरु के रूप में की थी बाद पुलिस कार्यवाही होने के उपरांत मेरे पति का शव मेरे परिवार वालों को सौंप दिया था परिवार वालों द्वारा शव को प्राप्त कर अपने घर चित्रकूट लाकर हिंदू रीति-रिवाज से अंतिम संस्कार कर दिया गया था।”

(Reproduced as Verbatim)

14. During cross-examination, she stated that her deceased husband was run over by the train coming from the opposite side. She did not get down at the site of the incident, as she is handicapped, and travelled up to Ghaziabad and then came back in Tempo, got down at the level crossing gate near Dadri Station which was 2 KM away from the site of the incident and then she walked along the track to get to the site of the accident. During her cross-examination she also denied that she had given any statement to the police and said that her thumb impression was taken on the blank papers by the police after 1-2 months of the date of incident.

15. Respondent railway disputed the claim of the applicant stating that this is a case of run over as the deceased was crossing the track and was run over by the train coming from the opposite side. In support of their

claim they presented the Assistant Loco-Pilot of train no. 12312 on the date of incident as respondent witness on who was examined as RW-1 and was duly cross-examined by the applicant counsel.

16. During the arguments, applicant counsel pleaded that he is not disputing the fact that the deceased died because of getting hit by the train coming from the opposite side but the incident happened because deceased fell down from the train by which he was travelling and was accordingly run over and not because he was trying to cross the track.
17. For adjudicating on the issue whether the untoward incident is made out or not, following facts need to be stated:

- a. *In the claim application filed by the applicant, in the Annexure 1, it has not been stated by the applicants that the deceased was hit by the train coming from the opposite side. They have unambiguously stated that deceased along with his wife was travelling from Manikpur to Anand Vihar Terminal and fell down from the train near Dadri on 09.03.2024 and this fall from the running train resulted in his death at the site of incident. However, in her affidavit, she has stated totally different narration. The affidavit has been filed on 27.11.2024 i.e. post filing of written statement along with DRM report.*

- b. *As per the Rough Journal of the train manager of train no. 12427 of 8/9.03.2024 by which deceased was travelling, the train had an unscheduled stoppage at home signal of Dadri station for 20 minutes.*
- c. *Further, as per memo issued by Deputy Station Superintendent Dadri, which has already been reproduced above, there is no doubt that the deceased was run over by the train no. 12312 which was going in the opposite direction.*
- d. *It is also obvious from Naksha Nazri prepared by the Investigating Officer that between these two tracks on which both these trains i.e. by which the deceased was run over and by which the deceased was travelling, there is a third track also.*

In the case of Smt. Deepa Devi and others v/s Union of India through the General Manager Northern Railway, New Delhi in claim application no. OA2U114/18 decided on 8/8/2019, the Division Bench of the Tribunal had noted the distance between the two railway lines. The relevant portion of the judgment rendered by the Division Bench of the Tribunal in case of Deepa Devi v/s Union of India (Supra) reads as under-

"We have also gone through the Addendum and Corrigendum Slip (ACS) No. 27 dated 17.07.2019 to the Indian Railways Schedule of Dimensions, 1676 mm Gauge (BG) Revised, 2004. As per the amendment carried it is specifically provided that for existing works, the minimum distance,

centre to centre of two railway lines on straight tracks will be 4265 mm and for new works in addition to the existing works, distance between two railway lines from centre to centre will be 5300 mm."

Thus there is a minimum distance of 4265 meters between the two tracks and in case a third track is there between the two tracks, the distance will double which means that the deceased was run over at a distance of at least more than 8 meters from the line on which he was travelling.

18. In his affidavit before the Tribunal, in Para 3 & 4 , Assistant Loco-pilot of train No. 12312 has stated as under:

"3. I say that on 09.03.2024, on the day of the incident, my duty was on train no. 12312/DN, as assistant loco pilot from Delhi to Toondla During my duty hours while between Dadri railway Station Ajaibpur at KM No. 1413/20, one person suddenly came in front of my Train who was using a mobile phone I say that the Loco pilot Sh. Kamlesh Kumar Meena continuously blew the whistle and also applied the brakes, but still, that person collided with my engine.

4. I say that the loco pilot Kamlesh Kumar Meena stopped the train at 1412/22 and checked the loco, and when everything was found normal, the Loco Pilot Kamlesh Kumar Meena informed about the incident to the Deputy Station Superintendent/DER (Dadri), the train guard, and TLC/TDL."

(Reproduced as Verbatim)

This statement in his affidavit is confirmed by the entries made in the his Loco-Pilot Notebook, the relevant entry of which is reproduced below.

“MRO at km 1413/20 stop - 1410/22 Time 7/25-28 one man using mobile with headphone 504 LG.”
(Reproduced as Verbatim)

During his cross-examination, the same facts were reiterated by the Assistant Loco-Pilot.

19. From the analysis of evidence and the probabilities, one is called upon to determine whether Smt. Indrani is wholly reliable witness or a partly reliable or partly unreliable witness or wholly unreliable witness. The legal position is well settled that in case a solitary witness is wholly reliable, the court will not look for corroboration and similarly if the witness is wholly unreliable, the Court shall discard the testimony. However, if the witness is partly reliable and partly unreliable, the Court shall rely upon documentary evidence or testimony of other witnesses to apply the test of corroboration.

In the present case, we find that AW-1 is wholly unreliable witness in view of the self-contradictory statements given by her in her affidavit and cross-examination as below.

- a. *Entirely different facts have been stated by her in her claim application and in her affidavit. Thus evidence led before the tribunal is against the pleadings.*
- b. *Further, her statement that she did not get down at the site of incident as she is handicapped, however, she chose to walk for more than 2 km after getting down at the gate does not seem probable and does not inspire confidence.*
- c. *Further, the wife of the deceased stated that he fell down from the train while other passengers were trying to board the train after the train in which they were travelling started moving after having an unscheduled halt. In such case the body of the deceased would have been found immediately next to the train in which she was travelling and not more than 8 meters away.*

20. It is apparent from the record that deceased had got down from the train when the train had an unscheduled stoppage at the home signal of Dadri Station and had gone on the opposite side for some unknown reason and was run over by the train going in that direction at a considerable distance from where the train No.12427 Reva Express was parked. There was no reason for the deceased to get down at unscheduled halt and cross the tracks and accordingly there is no doubt

that the incident is entirely of his own making which would have been clearly been avoided had he not got down from the train.

21. In view of this discussion and other facts on record, we conclude that that neither the deceased was bonafide passenger, nor untoward incident of accidental falling down from the train is made out. **Accordingly, Issue no. 2 is also decided against the applicants and in favor of the respondent railway.**

Issue No. 3 :-

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

Issue Nos. 4 & 5 :-

23. In view of our findings on the above issues, that the deceased was neither a bonafide passenger nor the incident caused by the victim is covered within the meaning of Section 123(c)(2) of the Railways Act, 1989, the applicants are not entitled to get any compensation. The claim application deserves dismissal and this issue is decided against the applicants. Accordingly, the claim application is dismissed.

ORDER

24. The present claim application, being devoid of merits, is dismissed with no orders as to the costs.

(Ravinder Goyal)
Member (Technical)

(Kanwaljit Singh Ahluwalia)
Chairman