



रेल दावा अधिकरण, प्रधानपीठ

RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH

Coram:

HON'BLE JUSTICE SHRI K. S. AHLUWALIA, CHAIRMAN
SHRI MUKESH NIGAM, VICE CHAIRMAN (TECHNICAL)/ALD @ DLI

Case No: (OA/II/U/DLI/244/2024)

Date of filing: 24/05/2024

Date of order: 31/01/2025

1. Saripan Begum, Wife of Late Mohammad Sabir
2. Sajid, Son of Late Mohammad Sabir
3. Mohammad Saniv, Son of Late Mohammad Savir
4. Mohammad Samir, Son of Late Mohammad Savir
5. Shaif Malik, Son of Late Mohammad Sabir
6. Alla Rakkhi, Wife of Late Sh. Ramjani

All residents of - Mohalla - Kasai Khana, Thana- Hathras Junction, Post- Mendu,
District- Hathras, Uttar Pradesh - 204101.

-Applicants

Versus

Union of India represented through
General Manager, North Eastern Railway,
Gorakhpur, Uttar Pradesh.

-Respondent

Application under Section 16 of Railway Claims Tribunal Act, 1987 in respect of
claim for compensation for death in an untoward incident.

Value of claim: 8,00,000/-.

Present:

For the applicants: Shri BS Mahur, Learned Counsel

For the respondent: Shri Manish Kumar, Learned Counsel through hybrid mode

JUDGEMENT

By Sh. Mukesh Nigam, Vice-Chairman (Technical)

1. The basic details relating to the accident as contained in the application are listed as under:-

a.	Date of accident	09.02.2024
b.	Person (hereinafter referred to as “ <i>Deceased</i> ”)	Mohammad Sabir
c.	Relationship of the claimants with the deceased.	Wife, Sons and Mother
d.	Train involved	Express train, train number not mentioned
e.	Place of occurrence of untoward incident	Platform no. 1, Mendu railway station
f.	Untoward incident narrated from Annexure “10”: (<i>Reproduced in verbatim</i>) “मृतक मौहम्मद साबिर दिनांक 09.02.2024 को एक्सप्रेस रेलगाडी द्वारा वैध मेल एक्सप्रेस रेल टिकट सं०-45902658 लेकर कासगंज रेलवे स्टेशन से हाथरस सिटी रेलवे स्टेशन की यात्रा कर रहा था कि अचानक रेलगाडी का झटका लगने से अज्ञात कारणवश चलती रेलगाडी से गिरकर मृत्यु हो गयी उक्त घटना के घटित होने में मृतक का कोई दोष नहीं था ”	

g.	Written Statement and DRM's Report	W.S & DRM's Report filed on 10.09.2024
h.	Averments in reply in Written Statement: <i>(Para no. 11 of Preliminary Objections -Reproduced in verbatim)</i> <i>“11. That On receiving the information, I along with the investigation officer left for the incident site on reaching the Mandu railway station, no injured or dead person was seen. On seeking information about the incident from the station master Mandu, he said that the dead person has been sent to Bagla Hospital Hathras City for treatment by ambulance. As told by the Mandu station master, when we reached Bagla Hospital Hathras City, his family members were present there. On enquiry, it was found that on checking by the doctors, he was declared dead. The name of the deceased was told to be Mohd. Sabir son of Ramjani resident of Mohalla Kasai Khana Mandu Thana Kotwali Hathras Junction District Hathras, Age 48 years. Then after some time, GRP Hathras City reached Bagla Hospital. They took the dead body in their custody. When GRP searched the body in front of the family members of the deceased, 2 tickets were found. 1 was stained with blood, it was not clear which number it had. The second ticket number 12614938 was issued from Hathras Junction to Aligarh on 09.02.2024. In the Panchayat Nama prepared by Hathras City for the deceased, ticket number UEQ 45902658 is shown from Kash Ganj to Hathras City on 09.02.2024 at 20.11 hrs.”</i>	
i.	Averments in reply in DRM's Report: <i>(Reproduced in verbatim)</i> <i>“जांचकर्ता की जांच रिपोर्ट के निष्कर्ष के अनुसार मृतक उपरोक्त का लापरवाही पूर्वक चलती अज्ञात गाड़ी की चपेट में आकर घटना का शिकार होना पाया गया है, उक्त घटना के लिये मृतक स्वयं जिम्मेदार है। यह मामला रेल अधिनियम की धारा 124/की उपधारा (ख) की श्रेणी में आता है। इसमें रेल के कार्य प्रणाली एवं रेल कर्मचारियों के कर्तव्य पालन में किसी प्रकार की त्रुटि नहीं पाई गयी। यदि आदेश हो तो रिपोर्ट मुंवां०प्र०/ दावा / कार्यालय गोरखपुर को प्रेषित कर दी जाये।”</i>	

2. On 13.09.2024, the Bench had 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?”

3. The applicant no. 1, Saripan Begum tendered her affidavit as AW/1. She was cross examined and discharged. The applicant had furnished certain documents which are marked Exhibits as under:-

S. No.	Documents	Marked as
1.	Copy of Aadhar Card of Mohammad Sabir	Exhibit A/1
2.	Copy of Aadhar Card of Saripan Begum	Exhibit A/2
3.	Copy of Aadhar Card of Sajid	Exhibit A/3
4.	Copy of Aadhar Card of Mohammad Saniv	Exhibit A/4
5.	Copy of Aadhar Card of Mohammad Samir	Exhibit A/5
6.	Copy of Aadhar Card of Alla Rakkhi	Exhibit A/6
7.	Copy of Bank Passbook of Saripan Begum	Exhibit A/7
8.	Copy of Aadhar Card of Shaif Malik	Exhibit A/8

4. The Respondent had not adduced any oral evidence and had filed its certified DRM's Report Ex. R/01 along with annexure.
5. Considered the pleadings of both sides, perused all the documents and evidence available on record and heard the submissions made by Ld. Counsels on both sides and the decision on the issues are as under:-

Decision with reasons

Issues no. 1 & 2

6. These issues are taken together as they are inter-connected. A memo was served by Station Master, Hathras City at 2320 hrs of 09.02.2024 to RPF, Hathras city and GRP, Hathras City in which it was stated that Station Master, Shri Vijay Singh Meena of Mendu railway station had informed that on platform no. 1 of the Mendu yard, at kilometre no. 302/15-16, some person whose age is about 42 years had fallen from some train as per information given by the loco pilot of train no. 05346. It was also mentioned that the Supervisor of the Ambulance had informed that the person had subsequently died and that necessary action may be taken.
7. In the Station Diary maintained at Mendu railway station for 09.02.2024, it was mentioned that around 2212 hrs, the loco pilot of train no. 05346 had informed that one person was lying on platform no. 1 towards Hathras City and when Pointsman Shri Yogendra Kumar Sharma was sent to check he informed that the person whose age was about 42 years appeared he have fallen from a train. It was further mentioned that the Station Master immediately informed the Section Controller, RPF/Hathras City, 108 Ambulance and GRP/Hathras. It was further mentioned that the Ambulance arrived at 2240 hrs and the Ambulance doctor had informed that the person who had fallen, had died. It was also mentioned that he had stopped the Ambulance and when he checked for the rail journey ticket, he didn't find it. It was

further mentioned that the deceased had been identified and it was found that he was coming from Kasganj after attending a wedding and the incident had taken place by train no. 22531.

8. The Panchnama proceedings on the death of the deceased started at 2339 hrs of 09.02.2024 and were completed at 0840 hrs of 10/02/2024. It was mentioned in the Panchnama that Shri Mukesh Kumar, Pointsman working with Station Master, Hathras City was the first informer of the incident who had stated that the cause of death of the deceased was on account of his falling from train and injuries on account of it. It was further mentioned in the Panchnama that a rail journey ticket from Kasganj to Hathras City dated 09.02.2024 which was purchased at 2011 hrs bearing no. UEQ 45902658 was found from the body of the deceased. It was mentioned that while trying to identify the deceased, his brother Saddam and Zakir also reached searching for him and upon seeing the body of the deceased, identified him. It was mentioned in the Panchnama that the deceased suffered deep wounds on the right leg and there were marks of injuries and abrasions on the upper side of his eyes and both hands and there were marks of injury and abrasions at several places on his body. In the opinion of the Panchas, the cause of death of the deceased was on account of falling from a train.
9. The postmortem of the body of the deceased was done between 1330 hrs to 1425 hrs of 10.02.2024. It was noted in the postmortem report that the deceased suffered

multiple abrasions and lacerated wounds on several parts of his body. It was mentioned in the postmortem report that the cause of death of the deceased was shock and hemorrhage due to ante-mortem injuries.

10. We are drawn to the observations made by the Hon'ble Supreme Court in Union of India v/s Rina Devi (2018 ACJ 1441) wherein, it is held that if an affidavit is filed by the victim or the dependents of the victim, the same is sufficient to hold that the victim was a bonafide passenger. It would be apposite here to reproduce para 17.4 of the judgement of Rina Devi (supra) as under: -

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

11. The applicant had filed an affidavit in which she had stated that the deceased was travelling with a valid rail journey ticket from Kasganj to Hathras City when he accidentally fell at Mendu railway station and died. During cross-examination, she had admitted that Saddam and Zakir, who were present during the Panchnama and one of the Panchas, were the brothers of the deceased.

12. The respondent had got the veracity of the rail journey ticket found from the body of the deceased checked and had stated that the ticket was genuine. In the

Panchnama it was mentioned that the rail journey ticket found from the body of the deceased was purchased on 09/02/2024 at 2011 hrs. The respondent had also submitted the actual train running status of train no. 22531 Chhapra-Mathura Suprefast Express on the day of the incident and had submitted that train no. 22531 Chhapra-Mathura Express had left Kasganj railway station at 2107 hrs and had passed Mendu railway station at 2155 hrs. It is also noted that the time of occurrence of the event was also at 2155 hrs. The running of train no. 22531 on the day of the incident matches with the timestamp mentioned on the rail journey ticket found from the body of the deceased and corroborates the narration proposed by the applicants that the deceased was a bonafide passenger who accidentally fell from the train.

13. The respondent had stated that the death of the deceased was on account of his own negligence and the Railway was not responsible for self-inflicted injury of the claimant. We are drawn to the observations of the Hon'ble Supreme Court of India in Union of India v/s Rina Devi (2018 ACJ 1441) where it was held 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."

14. Therefore, in view of the facts and circumstances of the present case and law applicable thereon, it has been proved on record that the deceased was a bonafide passenger and died in the incident by falling from the running train which is untoward incident as defined in Section 123(C) (2) read with Section 124-A of the Railway Act 1989. Hence, issues no. 1 & 2 are decided in favor of the applicants and against the respondent railway.

Issues no. 3, 4 & 5

15. To prove their relation with the deceased, the applicants had placed on record their Aadhar Cards including the Aadhar Card of the deceased. There is nothing on record to disbelieve the said evidence of the applicants to establish their relation with the deceased. The applicants being wife, sons and mother of the deceased are dependents of the deceased as defined in the Railway Act 1989. Hence, these issues are also decided in favor of the applicants and against the respondent railway.
16. We may notice that in ***Geeta Devi Vs Union of India***, Hon'ble High Court, Delhi 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 Nationalized 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 v 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 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.”

In pursuance of the orders passed by the Hon’ble High Court, Delhi, 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."*

17. This case pertains to untoward incident which occurred after amendment of the Railway Accidents and Untoward Incidents (Compensation) Rules 1990 vide G.S.R No. 1165(E) dated 22.12.2016 which is applicable with effect from 01.01.2017 and the incident date is 09.02.2024, hence the applicants are entitled for an amount of Rs. 8,00,000/- (Rupees Eight Lakh Only) along with simple interest @ 9% per annum from the date of incident i.e., 09.02.2024 till date of this Judgment. Therefore, relying upon the judgment rendered by the Hon'ble High Court, Delhi 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 proportionate interest shall be disbursed in the following manner:-

ORDER

18. The applicants Saripan Begum (Wife), Sajid (Son), Mohammad Saniv (Son), Mohammad Samir (Son), Shaif Malik (Son) and Alla Rakkhi (Mother) are entitled to an award of an amount of Rs. 8,00,000/- (Rupees Eight Lakh Only) along with

simple interest @ 9 % per annum from the date of incident i.e., 09.02.2024, till date of this Judgment, with no order as to cost.

19. A compensation amount of Rs. 8,00,000/- (Rupees Eight Lakh only) is awarded to the dependents along with 9% p.a. simple interest from date of incident till date of judgment. This amount will be distributed and disbursed as follows: -

<i>S. No.</i>	<i>Applicants</i>	<i>Relationship with the Deceased</i>	<i>Amount of Compensation on which proportionate interest to be added @ 9% p.a.</i>
<i>1.</i>	<i>Saripan Begum</i>	<i>Wife</i>	<i>Rs. 3,50,000/-</i>
<i>2.</i>	<i>Sajid</i>	<i>Son</i>	<i>Rs. 1,00,000/-</i>
<i>3.</i>	<i>Mohammad Saniv</i>	<i>Son</i>	<i>Rs. 1,00,000/-</i>
<i>4.</i>	<i>Mohammad Samir</i>	<i>Son</i>	<i>Rs. 1,00,000/-</i>
<i>5.</i>	<i>Shaif Malik</i>	<i>Son</i>	<i>Rs. 1,00,000/-</i>
<i>6.</i>	<i>Alla Rakkhi</i>	<i>Mother</i>	<i>Rs. 50,000/-</i>
<i>Total</i>			<i>Rs. 8,00,000/-</i>

20. As regards share of the applicant nos. 2, 3, 4 & 5, who are minor children of the deceased, the entire amount payable to them shall be invested in FDRs in their respective names, under the guardianship of their mother Saripan Begum, applicant No. 1, in a nationalised bank, near to the place of their residence, for the period till they attain the age of majority respectively with monthly payment of accrued

interest sent to applicant No. 1 for their upkeep and maintenance. On maturity, the entire amount payable together with accrued interest shall be credited to the savings bank account of applicant nos. 2, 3, 4 & 5 respectively.

21. 10% of the compensation amount awarded to applicant no.1 Saripan Begum (Wife) i.e., Rs. 35,000/- (Rs. Thirty Five Thousand only) along with a proportionate share of interest and Rs. 5,000/- (Rs. Five Thousand only) to applicant no. 6, Alla Rakkhi (Mother) along with a proportionate share of interest awarded will be paid to them immediately through ECS/NEFT into their bank accounts.
22. The remaining 90% of the compensation amount, i.e., Rs. 3,15,000/- (Rs. Three Lakh Fifteen Thousand only) of applicant no.1 and Rs. 45,000/- (Rs. Forty Five Thousand Only) of applicant no. 6 along with a proportionate share of interest will be kept separately in FDRs in their name for a period of three years in a nationalized bank and monthly interest will be paid to them. At the end of three years, the maturity amount and accrued interest will be paid into their bank accounts through ECS/NEFT.
23. The amount invested in FDR along with interest upon maturity of FDR should be credited into their individual savings account without recourse to this Tribunal. The monthly accruals of the fixed deposit should also be credited into their individual savings bank account.

24. The Respondent Railway Administration is hereby directed to deposit the awarded amount with Sutors Bank Account of the Additional Registrar of this Tribunal within a period of 60 days from the date of communication of the award failing which applicants shall be entitled to receive interest @ 9% per annum from the date of award till the actual date of depositing of the decretal amount with the Additional Registrar.
25. The applicants are hereby directed to submit the details of their Aadhar linked Bank accounts of a Nationalized Bank situated nearest to their place of residence to the Additional Registrar of this Tribunal. The Bank shall not permit any joint name(s) to be added in their saving bank account or fixed deposit account i.e. their Saving Bank Account shall be an individual Saving Bank Account and not a Joint Account.
26. No loan, advance, withdrawal, or pre-mature discharge is allowed on the fixed deposit without permission of the Tribunal.
27. The concerned Bank shall not issue any cheque book and/or debit card to applicants. However, in case the debit card and/or cheque book have already been issued, the Bank shall cancel the same before the disbursement of the award amount.
28. The Bank shall make an endorsement on the passbook of each the applicant 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 each of the applicants to withdraw money from their Saving Bank Account by means of a withdrawal form only.

29. The application is allowed in the above terms. No order to costs.
30. The Respondent Railway Administration is further directed to place on record the proof of deposit of the award amount with up to date interest along with a calculation sheet and the same shall be filed with the Additional Registrar.
31. The Registry is directed to send a free certified copy of this judgment directly to the applicants at their address mentioned in the claim application by Speed Post in compliance with Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

Date: 31/01/2025

(Mukesh Nigam)
Vice-Chairman (Technical)
RCT/ALD @ DLI

(Justice K. S. Ahluwalia)
Chairman