



रेलवे दावा न्यायाधिकरण, प्रधानपीठ
RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH

HON'BLE SHRI VIJAY KUMAR, MEMBER (TECHNICAL)

Claim Application No. : OA/II(u)/DLI/280/2022
Date of Filing : 04.11.2022
Date of Decision : 27.09.2023

1. Smt. Jal Devi, W/o Late Sh. Ramveer.
2. Sh. Vrijesh Kumar, S/o Late Sh. Ramveer.
3. Kavita, D/o Late Sh. Ramveer Singh.
4. Smt. Renu, W/o Sh. Mohan Singh.

Applicant no. 1 to 3:-

R/o Village - Ari, P.O. – Iradat Nagar,
PS – Iradat Nagar,
District – Agra,
Uttar Pradesh.

Applicant no. 4:-

R/o Nagla Putiya,
Undra, Bharatpur,
Rajasthan.

....APPLICANTS

Versus

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

....RESPONDENT

Claim for Rs.8,00,000/- along with 12% interest

Sh. Rajbir Singh, Counsel for the Applicant
Ms. Jatinder Kaur, Counsel for the Respondent

JUDGMENT

1. Smt. Jal Devi, wife, Vrijesh Kumar, son, Kavita and Renu, daughters filed the present claim application under Section 16 of Railway Claims Tribunal Act praying that for the death of Ramveer, aged 46 years in an untoward incident on 07.03.2019, compensation be awarded. It is the case of the applicants that Ramveer (hereinafter called 'deceased') was undertaking journey from Idgah Railway Station to Ikran Railway Station with his daughter Renu and niece Anjana and for the journey he had bought a combined journey ticket of ordinary second class bearing no. 16942462 for 3 adults. It is further their case that they had boarded DMU Passenger train at Idgah Station and while the train was about to reach Ikran, the destination station, due to sudden brake applied by the loco-pilot coupled with jostling of the crowd, deceased fell down from the running train and was grievously injured. It is further the case of the applicants that he passed away in RBM Hospital, Bharatpur in course of his treatment due to the injuries sustained by him.
2. Pursuant to notice issued, respondent filed their initial reply by way of Written Statement along with Report of DRM Ex. R-1. Respondent has denied the claim by stating vide Para 1 & 4 of the written statement as under:-

“1. That the claim filed by the applicants is not maintainable as the same is without any cause of action in favour of the applicants and against the respondents because it is matter of fact and record the incident took place due to the sole negligence of the deceased as the deceased was crossing the railway line and met with accident while the train No. 22547 was passing threw on main line, as such the applicants are not entitled to any compensation.

4. That as per the enquiry report, it came on record that on 07.03.2019 Shri Pushpender Singh was on duty as gateman on gate No. 31 at Ikran Railway Station and after train No. 12547 passed threw at 23.08 hrs, then he heard the noise of weeping and crying from k.m. 41/4-5 and when he reached there, then found one person lying in injured condition and two girls were respectively of the injured and further informed that they came from Idgah and were going to Village Vansi, Khaimra, after de-boarding the train, and they were crossing the line, then suddenly run threw train came and the injured came in contact of the train and suffered injuries. The gateman informed the incident to the station master Ikran. The injured was shifted to Govt. Hospital, Bharatpur, where he died. As such it was concluded that the incident took due to sole negligence on the part of the deceased, hence the claim petition deserved to be dismissed.” (Reproduced in verbatim)

3. DRM Report has also drawn similar conclusion as under:-

“दौराने जाँच जुटाए गए तथ्यों, साक्ष्यों, मृतक की पत्नी, पुत्री के बयान के आधार पर मृतक के साथ उक्त घटना उसकी स्वयं की गलती से रेल लाईन पार करते समय किसी अज्ञात गाड़ी की चपेट में आने के कारण घटित हुई है, उपरोक्त घटना में रेल प्रशासन की कोई लारवाही परिलक्षित नहीं मृतक के पास मिला टिकट वैध पाया गया।”

4. Tribunal on 24.03.2023 framed the following issues for adjudication:-

- 1 *Whether the deceased was a bona-fide passenger of the train in question at the relevant time of the incident?*
- 2 *Whether incident of death of the deceased falls under the ambit of an untoward incident as defined U/S Section 123(c) read with Section 124-A of Rlys. Act, 1989?*
- 3 *Who are the dependants of the deceased?*
- 4 *To what amount of compensation if any, are the applicants entitled to receive?*

5. Thereafter, applicants examined Smt. Jal Devi, widow of the deceased and Anjana, co-traveler on two different dates. Smt. Jal Devi tendered her affidavit towards examination in chief and appeared before the Tribunal on 15.05.2023. She was examined as AW-1. On 23.06.2023 Anjana, niece of the deceased appeared before the Tribunal and was examined as AW-2. Both AW1 and AW2 were cross examined by Ms Jatinder Kaur, Counsel for the

respondent. AW-2 during her cross examination stated that incident had occurred at around 11 PM and before the train had reached Ekdil Station. She further deposed that deceased was standing on the door of the compartment when due to sudden jerk he fell down. They had to go to Bharatpur Village which was 2-3 KM from Ikran Railway Station.

6. Respondent examined Gateman, Pushpender Singh who appeared before the Tribunal on 28.07.2023. He was examined as RW-1. In reply to Court question RW-1 stated that the gate where he was posted at the time of incident i.e., 07.03.2019 was 200-300 mtrs before Ikran Station towards Agra Cantt. He further stated that he had not seen the incident but he had heard someone crying and after hearing the cry he had gone to the place. It was around 11 PM and he found that one person was lying injured by the side of the railway track and near him two young ladies were crying. Thereafter he informed Station Master, Ikran. He further deposed that prior to the incident one passenger train had passed Ikran Station towards Bharatpur.

7. Thereafter the case was listed for arguments.

FINDINGS

8. Today, I have heard arguments advanced by both the learned counsels, gone through the pleadings made in the report of DRM and have also gone

through the evidences brought before me by both the learned counsels. My findings on the issues framed are as under:-

Issue No. 1

9. The journey ticket of deceased and other two co-passengers has been filed by the applicants which is bearing no. 16942462 issued at 17:13 hours from Idgah Station for Ikran Station. The said journey ticket has been verified by the respondent from Chief Booking Supervisor, Idgah and a copy of the verification report has been filed as part of the DRM Report at page 27/24. Obviously, there is no dispute with respect to the status of the deceased as a bona fide passenger. Accordingly, issue no. 1 is decided in favor of the applicants.

Issue No. 2

10. For this issue the pertinent point to be decided is whether deceased died as a result of injuries sustained due to accidental fall from the train no. 71905 or he was run over by a run through train 22547 while crossing the track. Respondent in the DRM Report has brought out that at 23:20 hours Gateman, Pushpender Singh of Gate located at 41/4-5 informed Station Master, Ikran about one injured found near the said gate no. 31. In his deposition before the Tribunal Gateman has contended that he had not seen any incident of run over by train. He had rather seen that two young ladies

were crying near the injured lying by the side of the track. He has also admitted that prior to the incident a train has passed the gate 1-2 minutes before. Obviously, it is a conjecture on the part of the respondent that deceased was run over by the train as has been concluded in the DRM Report. AW-2 who was the eye witness and co-traveller, in her deposition has stated that incident had occurred while the deceased was standing at the gate of the compartment trying to find out his destination station to arrive and due to sudden break applied by the train he fell down having lost his balance. Counsel for the applicant stated that there is no reason to dis-believe the co-traveller Anjana although, DRM Report has contended that after deceased has de-boarded from the train in course of crossing the track he was hit by the train. Panchayatnama of the deceased mentions injuries sustained due to train accident and the deceased was having injuries on the right side of his body. Post mortem report mentions lacerated wound present over elbow, torso and abrasion present on right side and cause of the death was shock as a result of ante mortem injuries.

11. Counsel for the applicant referring to the Panchayatnama and Post mortem report stated that none of the injuries are of crush nature which normally occurs in case of run over.

12. Counsel for the applicants led his argument further by stating that place of incident was 41/4-5 km which is prior to Ikran station which is at 41/35km. Therefore case of applicants get further fortified as has been prayed in the application that incident had occurred prior to arrival of Ikran station.
13. Relying upon the testimony of AW-2 Anjana and RW-1 and injuries as per the Post mortem report the issue of untoward incident is also decided in favor of the applicants.

Issue no. 3

14. Applicants are wife, two daughters and one son. From the Aadhar Card of the applicants filed by the claimants, their dependency on the deceased is established. Moreover, respondent has not led any evidence controverting the same. Accordingly, issue of dependency is decided holding that applicants are dependents in terms of Section 123 (b) of the Railways Act.

Issue no. 4

15. In the present case date of incident is 07.03.2019 and on that date admissible compensation for death in an untoward incident in terms of Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2016 was Rs. 8,00,000/- (Rupees Eight lac only). Accordingly a sum of Rs. 8,00,000/- (Rupees Eight lac only) is awarded as compensation in this

case. In addition there shall be a simple interest at the rate of 9% from the date of incident till date of payment by the respondent.

16. So far as disbursal of the amount of award is concerned, I have heard the learned counsels for the parties.

17. I 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 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 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 judgment rendered by Hon’ble Delhi High Court in case of Geeta Devi(Supra) and in pursuance of Rule 5 quoted

above, in the present case, the amount of compensation shall be disbursed in the following manner:-

19. Smt. Jal Devi, widow of the deceased shall be paid a sum of Rs. 4,00,000/- (Rupees Four lac only) along with accrued interest, Kavita, unmarried daughter of the deceased shall be paid a sum of Rs. 2,00,000/- (Rupees Two lac only) along with accrued interest and Vrijesh Kumar, son of the deceased and Renu, married daughter of the deceased shall be paid a sum of Rs. 1,00,000/- (Rupees One lac only) each along with accrued interest.
20. 10% of the share of Jal Devi, Vrijesh Kumar and Renu shall be released forthwith by ECS/NEFT transfer to their saving bank accounts. Rest of their respective shares shall be invested in FDRs in their name for a period of three years in a nationalized bank near to place of their residence with monthly payment of accrued interest to them. On maturity, amount with accrued interest shall be transferred to their savings account.
21. As regards the amount of compensation payable to applicant No. 3, minor daughter of the deceased, the entire amount payable to her shall be invested in a FDR in her name under the guardianship of her mother, Smt. Jal Devi in a nationalized bank, near to the place of her residence for the period of three years or till she attain the age of majority, whichever is later with monthly payment of interest accrued to applicant No. 1 for the maintenance and

welfare of her daughter. On maturity, the amount payable along with accrued interest shall be credited to bank account of applicant No. 3.

22. Respondent is directed to pay the amount in the account of ADR within a period of one month from the date of receipt of certified copy of this order.
23. ADR/PB/RCT/Delhi shall verify the details of the identity and bank accounts of the awardees filed 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 permanent residence.
24. The application is allowed in the above terms. No order to costs.

(VIJAY KUMAR)
MEMBER TECHNICAL

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