

**RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH, DELHI**

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

**Case No. : OA/II(U)/DLI/300/2024**  
**Date of filing : 30.07.2024**  
**Date of Decision : 20.03.2025**

Smt. Savita & ors,  
W/o Late Sh. Kamlesh.

Neha,  
D/o Late Sh. Kamlesh.

Radhika,  
D/o Late Sh. Kamlesh.

All are,  
R/o Gram Nagla Murli,  
Bhagwant Pur, Kannauj,  
Uttar Pradesh - 209721

...Applicants

Versus

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

...Respondent

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

Sh. Prashant Mehra for Smt. Ila Chaudhary, counsel for the applicant.

Sh. Avnish Singh, counsel for the respondent through hybrid mode.

**J U D G M E N T**

**Kanwaljit Singh Ahluwalia, Chairman :-**

1. The present claim application has been filed under Section-16 of the Railway claims Tribunal act by Smt. Savita, wife of Kamlesh, Neha and Radhika, two minor daughters of Kamlesh, praying that for death of Sh. Kamlesh, aged 29 years, hereinafter called '*deceased*' who died in an untoward incident, being a bonafide passenger, compensation be awarded. It is pleaded that unfortunately the applicant had fallen from the train on the intervening night of 24th-25th March 2025. It is pleaded that the deceased purchased a valid railway journey ticket bearing no. UTS-1X2JDR820H for undertaking journey from Bahadurgarh to Mainpuri Jn and the deceased undertook journey and boarded the train no. 14118 Kalindi Express, from Bahadurgarh for his onward journey to Mainpuri. It is further stated that on the intervening night of 24th and 25th March 2024 when the said train reached near K.M. no. 1321/24-1321/22 between a Aligarh to Daud khan railway station, due to sudden and violent jerk of the train and push given by co-passengers of overcrowded train, the deceased who was standing near the gate of the train compartment, fell down from the train and received serious/grievous injuries which resulted into his death on the spot. **It is further averred that the bag of the deceased was found by the family members and they found a valid railway journey ticket in the bag of the deceased. (emphasis supplied)**

2. The respondent filed written statement along with the statutory report of DRM Exhibit R-1. In the written statement filed, the respondent took a categorical stand that the death of the deceased had occurred due to collision with the train and it's a case of Man Run Over. It will be pertinent here to reproduce the relevant portion of para-1 of the Preliminary Objections taken in the Written Statement as under :-

*"1. That the claim petition filed by the applicants is not maintainable in the eyes of the law and the respondent cannot be held responsible for the incident in question because, as per the detailed investigation, it has been obtained that the dead body of the deceased Kamlesh was found lying on the side of the down line near km no. 1321/24-22 between Aligarh Daud Khan, on 25/03/2024 at 01.56 hrs. In her statement, the wife of the deceased stated that my husband used to work as a Labour in Haryana and he told me that he was willing to come home. I have no information about how he died. **As per the eyewitness's statement, the loco pilot of train no. 12452, the deceased Kamlesh suddenly came on the down track near km no. 1321/24-22, he kept blowing the whistle continuously, and the break was also applied by him but still the deceased collided with the engine of the train and got run over.** The deceased had faced the incident While he was walking on the railway line negligently/unauthorizedly and died after being hit by the said train. This incident in question, is actually, is the case of trace passing, which is a punishable offence under Sec. 147 of the Railways Act, 1989. " (Reproduced in verbatim)*

3. Respondents have submitted that the deceased was not a bonafide passenger and they have also denied that in the present case the death was a result of an untoward incident. In the DRM report Exhibit R-1, the following conclusion was drawn :-

*"निष्कर्ष :- घटना दिनांक 25.03.2024 की अग्रिम जाँच कार्यवाही के दौरान एकत्रित किये गये साक्ष्य पंचायतनामा, पोस्टमार्टम रिपोर्ट मेठ दाउद खां, परिजनों तथा लोको पायलट के बयान के आधार पर मृतक कमलेश की डेड बॉडी अलीगढ़ दाउद खां के मध्य किमी न 1321/24-22 के पास डाउन लाइन के किनारे पड़ी थी मुझ जांच अधिकारी द्वारा घटना की पुष्टी की गई । पुलिस द्वारा पंचायतनामा की कार्यवाही के दौरान मृतक के पास यात्रा संबंधी कोई टिकट आदि दस्तावेज नहीं होने दर्शाया है। मृतक कमलेश की पत्नी ने यह बताया कि मेरे पति हरियाणा में मजदूरी करते थे और मुझसे घर आने की कह रहे थे उनकी मृत्यु किस प्रकार हुई इस सम्बन्ध में मुझे कोई जानकारी नहीं है। मृतक की पत्नी द्वारा एक रेलवे का यात्रा टिकट संख्या AAB18395462 EX- BGZ TO MNQ Date 24.03.2024 का प्रस्तुत किया गया जिसका सत्यापन बहादुरगढ़ रेलवे स्टेशन उ.रे. से कराया गया । उपरोक्त घटना के प्रत्यक्षदर्शी गवाह गाडी संख्या 12452 के लोको पायलट के बयान से स्पष्ट है कि मृतक कमलेश किमी न 1321/24-22 के पास अचानक डाउन ट्रैक पर आ गया चालक द्वारा लगातार सीटी बजाई गई, ब्रेकिंग भी की गई किन्तु फिर भी उपरोक्त व्यक्ति उक्त गाड़ीके इंजन से टकराकर रनओवर हो गया। उपरोक्त मामला ट्रेस पास से सम्बन्धित है।*

*श्रीमान घटना उपरोक्त से सम्बंधित सभी एकत्रित किये गये साक्ष्य.एवं कागजात की प्रतियाँ इस रिपोर्ट के साथ संलग्न कर सेवा में सादर प्रेषित है।" (Reproduced in verbatim)*

4. The Tribunal, on 15<sup>th</sup> October 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? “*

5. Wife of the deceased, Smt. Savita, applicant no. 1, appeared before the Tribunal and tendered her affidavit towards examination-in-chief. She was duly cross-examined by counsel for the respondent. In her cross examination, she admitted that she had received the bag of her husband from the police and from the said bag, clothes and tickets were recovered. She had kept the ticket with herself and had handed over the same to the advocate for the first time when the case was to be filed. The following portion of the cross-examination is reproduced below :-

*“मुझे अपने पति का बैग पुलिस द्वारा मिला था उसमे मेरे पति के कपड़े और टिकट थी। मैंने अपने पति का यात्रा टिकट अपने पास रख लिया था। मैंने पहली बार यह टिकट अपने वकील साहब को मुकदमा दायर करते समय दिया था। “ (Reproduced in verbatim)*

6. Respondent examined Dharmendra Bahadur Singh as RW-1. Dharmendra Bahadur Singh, being a sole eye witness of the respondent. In his testimony, RW-1 stated that in 2022, he was posted as Loco-pilot in the Delhi division and on 24<sup>th</sup> March 2024 at 23:10 hrs he commenced journey by manning a train from New Delhi to Kanpur. He further stated in cross-examination that he was taking the train at a

speed of 110 km/hr and at around 01:53 hrs on the intervening night, a person was spotted coming from the North side, he blew horn continuously and applied brakes, but the said person collided with the engine. The train stopped at KM no. 1320/20-18 at 01:56 hrs and he immediately through VHF informed the train manager and Dy. SSA DAQ.

**Findings :-**

**Issue nos. 1 & 2 :-**

7. Both these issues, being interconnected, are taken up together for consideration. In the present case, the occurrence had taken place on the intervening night of 24th and 25th March 2024. The purported ticket recovered from the bag of the deceased, for the first time, saw light of the day, when it was annexed along with the affidavit filed towards examination-in-chief by Smt. Savita, applicant no. 1. The affidavit was filed on 23<sup>rd</sup> December 2024 whereas the claim application was filed on 26th July 2024. Sh. Avnish Singh, counsel for the respondent appearing through hybrid mode, is right to urge that the ticket was introduced at a highly belated stage. From the date of incident till the filing of the claim application, nobody was informed that the deceased was a bonafide passenger. Thus, the version given to the Court, that the deceased was a bonafide passenger, is a story cooked later as a result of consultations and deliberations. From the date of occurrence till 26th July 2024, when the claim application was filed, it was nowhere the case of the applicant that the deceased was a bonafide passenger. No

railway authorities are aware of the incident. It is amazing that the police handed over the bag without preparing a memo and noticing the contents of the bag in any document. Taking totality of circumstances, especially when there is no witness who had seen the deceased, purchasing ticket and also a witness, claimant, Savita AW-1, nowhere stated that on which date and at what time, the bag of the deceased was handed over to her and especially when no document regarding handing over of the bag was or memo was prepared. The Tribunal cannot take into consideration the ticket relied upon. When these circumstances are considered along with the testimony of the Loco-pilot, they lend credence to the submission made by counsel for the respondent that the ticket was purportedly obtained under the suspicious circumstances and it will not be just and appropriate to rely upon the ticket produced at a belated stage, without furnishing any justifiable explanation by the applicant claimant witness AW-1. No cogent evidence is forthcoming as to how and when the ticket or bag by the family members of the deceased was retrieved. RW-1, Dharmendra Bahadur Singh, immediately after the occurrence, had made an entry in the loco pilot book. He had also relayed the information to Dy. Station Master and other authorities, informing that the deceased was hit by the engine of his train. The relevant entry made in the Loco-Pilot book is reproduced below :-

*“MRO at KM. No. 1321/24-22, T/S-1320/20-18 (01/56-02/05)” TS का मतलब ट्रेन स्टॉप है।”*  
(Reproduced in Verbatim)

8. MRO, in common parlance of Railways means man runover. The spontaneous entry made in the loco-pilot book and the information relayed to the Railway

authorities which is noted in the documents not only lend credence to the ocular version given by the loco-pilot, but also make the entries admissible under Section-191 of the Railways Act, 1989. There is nothing on record to doubt the testimony of Dharmendra Bahadur Singh, Loco-pilot, RW-1 as his testimony inspires confidence in the mind of the Tribunal. Consequently, the Tribunal shall place implicit reliance upon the testimony of Sh. Dharmendra Bahadur Singh, Loco-pilot, RW-1. Thus, no *untoward incident* is made out. Taking totality of circumstances, it is held that the applicants have failed to prove issue nos. 1 and 2 in their favour and the same are decided in favour of the respondent.

**Issue Nos. 3, 4 & 5 :-**

9. Having decided issues nos. 1 & 2 against the applicants, adjudication qua issue nos. 3 pales into insignificance and is not required. Thus, issue no. 4 & 5 are decided against the applicants and in favour of the respondent by holding that they are not entitled to any relief and compensation.

**ORDER**

10. In view of the discussion held above, the claim application, being devoid of merits, is hereby dismissed with no order as to costs.

**(Kanwaljit Singh Ahluwalia)  
Chairman**