

RAILWAY CLAIMS TRIBUNAL

Ernakulam Bench

Dated – 28th April, 2025

Coram

Shri Pravinchandra N Parmar

Hon'ble Technical Member

O.A(IIu)/ERS/42/2022

- 1. Sivaprasad.A.K, (H/o Late Sujatha)
aged 52 years, S/o Choyikutty,
Vayalakkarthazham, Near NMUP School,
P.O.Kallai - 673 003, Calicut District.**
- 2. Srilakshmi.A.K., (D/o Late Sujatha)
Aged 23 years, D/o Sivaprasad.A.K.,
Vayalakkarthazham, Near NMUP School,
P.O.Kallai - 673 003, Calicut District.**
- 3. Hiran.A.K., (S/o Late Sujatha)
Aged 15 years, S/o Sivaprasad.A.K.,
Vayalakkarthazham, Near NMUP School,
P.O.Kallai 673 003, Calicut District.**
- 4. Neeraj.A.K., (S/o Late Sujatha)
Aged 15 years, S/o Sivaprasad.A.K.,
Vayalakkarthazham, Near NMUP School,
P.O.Kallai 673 003, Calicut District.**

____ Applicants/claimants

Vs

**Union of India,
Through General Manager,
Southern Railway, Chennai**

____ Respondent

Counsel for Applicant(s) : Adv Shri T C Govindaswamy

Counsel for Respondent : Adv Shri Anish Jain

ORDER

The O.A No.42/2022 was filed by the applicants before this tribunal on 01/12/2022 , the same was heard by this tribunal, after going through the evidences and the records, following Judgement was passed on 28/11/2023.

"All the facts and circumstances established in this matter would show that the act of the deceased was with full knowledge of imminent possibility of endangering her life or limb and therefore, it's squarely comes within the term self-inflicted injury in section 124 proviso [b] of the Railway act, 1989. In view of my above discussion it is proved on file that the deceased was not a sufferer of an untoward incident as such the issue no 3 is decided against the applicant and in favor of the Railways. Since both the issues are decided against the applicant and in favor of the Railway, I feel that it will be a redundant exercise to discuss other issues and adjudicate the matter of those issues. Claim application is accordingly dismissed File be consigned to records Copies of this order be sent to the parties free of charge. Pronounced in the open Tribunal, on this, the 28th day of November 2023."

Aggrieved by the above Judgement of this Tribunal, the applicants filed an appeal before the Hon'ble High Court of Kerala, as MFA(RCT) No.2 of 2024, after examining all the evidences and documents, Hon'ble High Court of Kerala passed the following Judgement on 27.11.2024 .

*"In the result, the appeal stands allowed as follows:
(i) The judgment dated 28.11.2023 of the Railway Claims Tribunal, Ernakulam Bench, in O.A. (IIu)/ERS/42/2022, is hereby set aside.
(ii) The case is remanded back to the Tribunal for the adjudication of the compensation amount payable to the appellants (applicants/claimants 1 to 4).
(iii) It is made clear that the issue as to whether the deceased died due to an 'untoward incident' within the meaning of Section 123(c) of the Railways Act, 1989, is found in favour of the appellants."*

In view of the above judgement of the Hon'ble High Court of Kerala, this tribunal is adjudicating the compensation amount payable to applicants as below.

A compensation amount of Rs. 8,00,000/- (Rupees Eight Lakh only), along with interest at the rate of 6% per annum from the date of the incident, i.e., 19/05/2022, is awarded to the applicants and shall be equally distributed among all four applicants

Respondent, in this case is directed to deposit the compensation amount in the Sutor's account of this Tribunal within a period of 60 days from the date of this order, failing which a simple interest @9% p.a. will be payable for the subsequent delay on the total amount.

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

Therefore, relying upon the judgement rendered by the Delhi High court in the case of Geeta Devi(supra) and in pursuance of Rule 5, in the present case, the amount of award along with the interest shall be disbursed to the applicant:

This follows the direction of the Hon'ble High Court of Delhi, in Geeta Devi vs. Union of India in, FAO No.22/2015 and ordered the Principal Bench to be applied all across the Benches in India. The monthly payments as provided in Geeta Devi's case, was indeed the mode of payment that was approved by the Hon'ble Supreme Court in M.R.Krishna Murthi vs. New India Assurance Company (Appeal Nos.2476 & 2477 of 2019 decided on 5.3.2019) for all claims relating to the motor accidents. The Hon'ble Delhi High Court has directed the scheme as approved for motor accident victims, will also be applied for train accident victims.

It is ordered that out of the total amount only 10% of the compensation amount to the tune of Rs.20,000/-(Rupees Twenty Thousand only) each will be released to the applicant no.1 & 2 in their favour through ECS along with the accrued interest in the same proportion. The remaining amount Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) for the applicant no.1 shall be kept in 18 fixed deposits of Rs.10,000/- each for the period of one month to 18 months, with cumulative interest. The remaining amount Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) for the applicant no.2 shall be kept in 36 fixed deposits of Rs.5,000/- for the period of one month to 36 months, with cumulative interest. The maturity amounts of the FDR(s) be

credited through ECS in the savings bank account of the Applicants no.1 & 2 near the place of their residence.

As far as, the applicant no.3 & 4, who were minors at the time of filing the Original Application, but have attained majority as on the date of the judgment, a sum of Rs.2,00,000/- (Rupees Two Lakh only) each is awarded to Applicant No. 3 & 4 . It is ordered that out of the total amount only 10% of the compensation amount to the tune of Rs.20,000/-(Rupees Twenty Thousand only) each will be released to the them in their favour through ECS along with the accrued interest in the same proportion and remaining amount Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) each shall be kept in 36 fixed deposits of Rs.5,000/- each for the period of one month to 36 months, with cumulative interest. The maturity amounts of the FDR(s) be credited through ECS in the savings bank account of the Applicants no.3 & 4 near the place of their residence.

This special arrangement is done to protect the money from the middlemen and other unscrupulous people. The claimant was also apprised of this policy of keeping his money in the shape of FDR, for which he agreed immediately

ADR/RCT will verify the details of the bank accounts of the awardee, before making the payment. Further to that, the bank should also be directed not to allow any loan, advance, or withdrawal or premature discharge on the fixed deposit, without the permission of this Tribunal.

The bank account of claimants should be in a Nationalised Bank near to their place of permanent residence, where they lives permanently.

Additional Registrar of this Tribunal to do the needful. Copies of this order be supplied to the applicants free of any charge.

The application is allowed in the above terms. No order as to cost.
Pronounced in the open Tribunal, on this, the 28th day of April 2025.

Pravinchandra N Parmar
Member(T)
RCT/ERS