



रेल दावा अधिकरण  
गुवाहाटी न्यायपीठ  
**RAILWAY CLAIMS TRIBUNAL**  
GUWAHATI BENCH

STATION ROAD  
GUWAHATI-781001

**Coram: Mrs. Leena Sarma, Member (Technical)**  
**Mr. Mahtab Ahmad, Member (Judicial)**

Claim Application No.OAIIu-37/2022

Date of filing of claim application: 24.05.2022

Date of Judgment: 29.09.2023

1. Smt. Anna Tudu

(Mother of the deceased)

2. Anok Murmu

(Brother of the deceased)

(Represented by the Claimant No.1 of the deceased)

Resident of Village- Sinhgaon,

Kajaimati, P.S.- Udalguri,

District- Udalguri, Assam, Pin-787061

....Applicants

- Versus -

The Union of India,

Represented by its, General Manager,

N.F Railway, Maligaon

.... Respondent

**Present:**

Mrs. A. Bhanu, Learned Counsel for the Applicant.

Mr. H.Gupta, Ld. Counsel for the Respondent.

## **JUDGEMENT**

### **1. Basic details relating to accident as contained in the claim application:**

- |    |                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a) | Date of accident :                                               | 25.01.2022                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| b) | Deceased person :                                                | Late Romison Murmu                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| c) | Relationship of the claimants<br>with deceased :                 | Mother and brother of the deceased.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| d) | Train involved & transit details<br>(As per Claim Application) : | The victim had fallen down from the running train while he was travelling from Delhi to Gauhati Railway Station with a valid journey ticket.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| e) | Untoward incident narrated<br>(As per Claim Application) :       | As disclosed in the claim application, "On 25.01.2022, the victim Late Romison Murmu fell down from the running train from Delhi to Gauhati Railway Station with a valid journey ticket and as a result he received grievous injuries and he succumbed to his injuries. All his material belongings was lost including Rs.30000/- and the journey ticket was also lost in the accident. The victim was the only earning member of his family. As the claimant has been suffering from extreme hardships after the death of the victim as he was the only earning member in the family. In this regard, GRPS had registered a UD case No. 1/22 dated 25.01.2022. |

f) Jurisdiction :

RCT, Guwahati Bench.

## 2. Documents filed by the parties:

| SL. No. | Documents furnished along with the claim application      | Page No. Exhibit |
|---------|-----------------------------------------------------------|------------------|
| 1.      | True Copy of Station Memo.                                | Exh-1            |
| 2.      | True copy of Inquest Report.                              | Exh-2            |
| 3.      | True copy of Post Mortem Report.                          | Exh-3            |
| 4.      | Aadhar Card of Anna Tudu.                                 | Exh-4            |
| 5.      | Copy of Gaon Burah Certificate.                           | Exh-5            |
| 6.      | Copy of Bank Pass Book.                                   | Exh-6            |
|         | Respondent Railways had filed W.S. along with DRM Report. | Exhibit as R-1   |

## 3. Brief history of the case:

(a) The claim application has been filed by the mother and the younger brother of the deceased. The content of the Claim Application in brief has already been narrated in Para 1(e) above. Now, we need to see the testimonies of the witnesses.

AW-1 namely Anna Tudu came before this Tribunal and deposed her statements wherein she stated that “The accident occurred on 25.01.2022 but I cannot say how the accident occurred. My deceased son was travelling from Delhi to Guwahati by train with a valid journey ticket but I have not seen him purchasing a railway journey ticket. I have not seen the accident. He travelled alone. I cannot say by which train he travelled. On 25.01.2022, in the morning he told me over phone that he was coming from Delhi by train and when I tried to contact in the evening, I did not get him. On the next day around 7 a.m. i.e on 26.01.2022 police informed me over phone that my deceased son had met with an accident and died. My statement was recorded by RPF. I did not travel with my deceased son. I have not gone to the place of incident. Government vehicles were arranged by my relatives to collect the dead body of my deceased son. I am not an eye witness to the incident. Whatever I have stated in my application and evidence on affidavit are based on hearsay.”

(b) As per the written statement the Respondent Railway did not admit the averments made by the applicant. As per the Written Statement, the loss of ticket along with Rs. 30,000/- was a blatant lie to gain monetary benefits from the respondent authority. There was also no eye witness of the falling down of the victim from the alleged or any other train on 25.01.2022 as because the victim was detected before the arrival of the train DN BCN Empty loco No.31358 towards Railway km 55/4-5 under Kishanganj GRPS.

The respondent denies that there was any incident occurred with alleged train since the victim was detected at some distance before the arrival of the alleged train at the place of occurrence. The claimant claimed that her son had fallen from an unknown running train and the respondent found it objectionable. Also the claimant had denied that the victim had any cell phone in her claim petition.

Therefore, the respondent denies that the victim had fallen down from the alleged train and as the detailed enquiry report and the statement of the loco pilot and guard suggests that they had seen one suspected body lying at Railway km No.55/4-5 in between MXJ – AUB before the alleged train reached there. As such it appears that the death might be due to any other reason and the respondent will not liable for paying this compensation.

It is also to be mentioned in the Written Statement that trespassing on the railway property is an offence and criss crossing on the track except in the permitted place is also impermissible. Ticketless travel is also prohibited and it is a punishable offence and all occurrences in and over the railway properties are investigated by the RPF and all the railway properties are under the exclusive control of the railways. The admitted fact is that the dead body was found with injuries on it near railway track between AUB-MXJ at Km No. 55/4-5. The dead body was noticed on 25.01.2022 and as the post mortem report suggests, the death time was

within 24 hrs as such there was a possibility that the victim had come or been taken to the place of incident where the dead body was found.

(c) **Crux of the DRM Report:** From facts and enquiry, it is revealed that on dated 25.01.2022 the deceased person namely Romison Murmu aged about 27 years was coming from Delhi to his home Assam by any train . During that time when the said train reached between Aluabari and Mangurjan Railway Station near Railway K.M. No.55/4-5 the victim person fell down and due to hemorrhage and shock by run over by the train, he died on the spot. No any journey ticket was found from the possession of the deceased person.

However, the DRM Report has accepted it as a case of untoward incident under Section 123© of the Railways Act, 1989. The finding of the Divisional Security Commissioner is quoted here, ‘During enquiry it has been established that it is a case of untoward incident.’ This finding has been approved by the DRM on 18.08.2022.

#### **4. Following Issues are framed.**

1. Whether the victim was a bonafide passenger?
2. Whether the victim died in an untoward incident defined under provisions of section 123(C) (2) of Railway Act. 1989?
3. Whether the applicants are dependents within the meaning of section 123(b) of Railway Act.1989 and entitled to claim compensation? If so, to what sum?
4. Relief?

#### **5. Determination and findings of Issues:**

1. Whether the victim was a bonafide passenger?

The first issue is whether he was a bonafide passenger or not. It is a fact that no ticket could be recovered from the body of the deceased during inquest. However, recovery or non-recovery of a ticket is not a

very relevant point as far as the untoward incident is concerned since ticket might be lost under the impact of such a mighty fall. DRM Report has clearly admitted that it was a case of untoward incident under the provision of 123(C) of the Railways Act. Therefore, it has been considered that the victim was a bonafide passenger.

**2.** Whether the victim died in an untoward incident defined under provisions of section 123(C) (2) of Railway Act. 1989?

a) The report of SI/RPF/AUB filed on 24.07.2022 had held that, '*...as per record it is not an untoward incident case.*'

However, the DRM Report clearly mentions that it was a case of untoward incident. Though not much explanation has been furnished about how such a conclusion has been arrived at, it may be surmised that the following factors must have been taken into account while deciding the issue of untoward incident:

The deceased was not a resident of that area, there was no record to show that he worked somewhere nearby or he committed suicide or the death was due to some disease etc.

His dead body was recovered between the track at KM No. 55/4-5 at about 19.35hrs between Mangurjan and Aluabari sections and it indicates that the victim probably might have lost his balance and fell down and as a result he died.

DRM Report has clearly admitted that it was a case of untoward incident under the provision of 123(C) of the Railways Act.

b) When DRM Report has accepted it as a case of falling down from train there is no further scope for discussions on the issue.

**3.** Whether the applicants are dependent within the meaning of section 123(b) of Railway Act, 1989 and entitled to claim compensation? If so, to what sum?

“dependent” means any of the following relatives of a deceased passenger, namely:-

- (i) **the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;**
- (ii) the parent, minor brother or unmarried sister, widowed sister widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;
- (iii) a minor child of a pre-deceased daughter, if wholly dependent on the deceased passenger;
- (iv) the paternal grandparent wholly dependent on the deceased passenger;”

The applicants here are said to be the mother and the younger brother of the deceased. The mother of the deceased i.e Smt. Anna Tudu is entitled for the entire awarded amount of Rs.8,00,000/- (Rupees Eight Lakh Only). Shri Anok Murmu, the Applicant No.2, who is the brother of the deceased, is not entitled for any compensation as per Section 123(b)(ii) of the Railways Act, 1989, since he has attained the age of majority as on date as per the claim application. Perusal of his birth certificate shows that therein his date of birth has been overwritten, as such not relied upon. Therefore, only the mother is the dependent as defined under the Section 123(b) of the Railways Act, 1989.

#### 4. Relief?

The claimant i.e the mother of the deceased is entitled to the entire compensation amount of Rs.800000/- (Rupees Eight Lakh Only).

### **ORDER**

- I. The original application is allowed on contest against the Respondent. Respondent is directed to pay the mother of the deceased, a sum of Rs.8,00,000/- (Rupees Eight lakhs only) with 6%

(Six percent) interest from the date of accident to the date of this order. This has to be paid within 90 days from the date of the receipt of this order by the respondent failing which applicant shall be entitled to receive interest @ 9% per annum from the 91<sup>st</sup> day of the receipt of the order till the actual date of depositing of the decreed amount. The Compensation amount is directed to be distributed as under-

|                                              |                                        |
|----------------------------------------------|----------------------------------------|
| 1.Smt. Anna Tudu<br>(Mother of the deceased) | Rs.8,00,000/-(Rupees Eight Lakhs only) |
|----------------------------------------------|----------------------------------------|

Considering the status of the family of the deceased and to protect the amount from being frittered away, the amount shall be deposited in the following manner-

a) The compensation amount of Rs.8,00,000/-(Rupees Eight Lakhs only) is payable to the mother of the deceased namely Smt. Anna Tudu. Rs.2,00,000/- (Rupees Two Lakh Only) along with the interest on the whole compensation amount will be payable to her through RTGS/NEFT transfer and the rest of the amount of Rs.6,00,000/- (Rupees Six Lakhs Only) will be kept as Fixed Deposit in a Nationalized Bank for 3 (three) years. On completion of 3(three) years, the entire amount along with interest will be transferred to her Savings Bank Account.

II. While deciding the mode of payment, Geeta Devi Case, the Para 5 of the Ministry of Railways notification dated 3<sup>rd</sup> June/2020 and RCT/Principal Bench/Delhi's decision in Case No. OA(IIu) DLI/53/2019 dated 16.09.2020 are taken into consideration.

III. Railway need to ensure compliance of all the conditions mentioned in Para 5.4.4 and of Para 5.4.5. Ministry of Railways

Notification of 3<sup>rd</sup> June, 2020 issued under F. No.- 2019/TC-III/26/3.

IV. The claimants are directed to open individual savings Bank accounts in a Nationalized Bank near of their permanent residence. The bank is directed not to permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the claimants i.e. savings bank accounts of the claimants shall be an individual savings bank account and not a joint account.

V. The concerned bank is directed not to issue any cheque book(s) and/or debit card(s) to the claimants. If the same have already been issued, the bank is directed to cancel the same before the disbursement of the award amount and the bank shall freeze the account of the claimants so that no debit card is issued in respect of the account of the claimants from any other branch of the bank. The bank should make an endorsement on the passbook of the claimants to the effect that no cheque book and/or debit card shall not be issued to the claimants without the permission of the RCT.

VI. The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by the bank to the claimants. The monthly interest to be credited by ECS in the savings bank account of the claimants near the place of their residence. The maturity amounts of the FDRs be credited by ECS in the saving bank account of the claimants near the place of their residence. The bank shall not grant any loan, advance, withdrawal or pre-mature discharge on the fixed deposits without permission of the RCT.

VII. Registry is directed to send a certified copy of this judgment to the applicant No.1's address through speed post.

VIII. This original application stands disposed of accordingly.

IX. Let the case file be consigned to the record room after due compliance.

(Mahtab Ahmad)  
Member (Judicial)  
RCT/GB

(Leena Sarma)  
Member (Technical)  
RCT/GB

*ED*

**ORDER-SHEET****Original Application No.– OAIu- 37/2022****Dated:29.09.2023**

*The claim application is allowed. Judgment pronounced today vide separate sheet.*

(Mahtab Ahmad)  
Member (Judicial)  
RCT/GB

(Leena Sarma)  
Member (Technical)  
RCT/GB