



रेल दावा अधिकरण
गुवाहाटी न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
GUWAHATI BENCH

STATION ROAD
GUWAHATI-781001

Mr. Mahtab Amhad, Member (Judicial)

Mrs. Leena Sarma, Member (Technical)

Original Claim Application OAIU-59/2022
Date of filing of claim application: 23.06.2022
Date of judgement: 13.06.2024

Smti. Phatema Bibi,
Mother of Late Alkach Hossan

Residence of Vill. Khas Chowmohani, P.S. Melaghar,
Sipahijala, Dist.- Sepahijala, Tripura, PIN -799115.

..... Applicants

-Versus -

The Union of India represented by
General Manager, N.F Railway, Maligaon.

..... Respondent

Present: Sri B. C. Das, Learned counsel for the applicant.
Sri H. Gupta, Learned Counsel for the respondent.

Mr. Mahtab Amhad, Member (Judicial)

JUDGEMENT

Smti. Phatema Bibi the applicant has filed this claim application for compensation under Section 16 of the Railway Claims Tribunal Act, 1989 read with Section 124-A of the Railway's Act, 1989 for the death of his deceased son Alkach Hussain son of Safik Miah residence of Vill. Khas Chowmohani, P.S. Melaghar, Sipahijala, Dist.- Sepahijala, Tripura, PIN -799115 who is said to be died in a railway untoward accident on 21.09.2019 at Maghlipara, Kathalchara near railway track allegedly by falling down from Kanchanjanga Express while travelling from Karimgang to Agartala with a UDI Ticket No.UZA-33552569

2. In short, applicant's claim is that in the morning of 21.09.20219 around 5 AM the above victim left his home for going to Karimganj for some work. On the same day at night at around 8.00 PM he informed the applicant that he was coming from Karimgang to Agartala to his home by train purchasing railway journey ticket. But unfortunately he did not reached on the night. On the next day in the morning the applicant tried to contact him over mobile phone but his phone was found switched off. Thereafter, she tried by all the possible ways to search the victim but could not find him. On 23.09.2019 in the morning she came to know from one Bangla News Channel that one dead body of Alkach Hussain was found at Meghlipara, Kathalchara near railway track. One railway journey ticket and voter card has also recovered from his possession. On the same day one of the relative of victim namely Babul Husain has lodged an FIR regarding death of the victim with Agartala GRP and an UDI case vide no.11/2019 was registered. After some days, the applicant come to know from some reliable sources that when her son was coming back from Karimganj to Agartala to his home, he was murdered by some persons inside the train in which he was travelling and thrown away from the running train to the bushes near the railway track of Meghlipara, Kathalchara area. Accordingly, the applicant has lodged at GRP at Agartala Criminal case No.12/2019 GRP under Section 302/34 IPC on 05.10.2019. It is also stated in the claim application that the victim was unmarried. Moreover, his father Safik Miah was living separately since his childhood and got married with another women and residing in Bangladesh with his new family.

3. Respondent Railway has contested the claim application by filing written statement dated 13.03.2023. It is stated that the claim application is not maintainable either in law or on facts and there is no cause of action to the applicant for filing the present claim application. It is also stated that the case is in no manner falls within the ambit of Section 123(c) read with Sections 124A of the Railways Act, 1989. It is also stated that the respondent has denied all the averments made in the claim petition save to those specifically admitted in the written statement and applicants is put to strict proof thereof. Applicant's signature on the claim application is also

denied. It facts regarding alleged travel of the deceased and the alleged possession of journey ticket with the deceased for the said travel are also denied and asked the applicant for proof with liable evidences. Name of the train was also not disclosed. For the ticket, it is stated that for the sake of arguments if it is presume that the Police Authority has recovered the ticket from the deceased, it could not make the deceased passenger as bonafide passenger. There is no eyewitness of the alleged travel and accident. In the claim application it is stated that the deceased suffered a violent attack and was thrown away from running train to the bushes near the railway track of Maghlipara Katlichara area but such incident was not noticed by anyone in the train. Further, claimants herself has filed a criminal case of murder against 5 accused. Thus, she has prefer criminal case first and not claim petition. Later on the criminal case was withdrawn after a mutual settlement. On 23.09.2019 SSE/P-WAY/AGTL Bapan Sutradhar has informed on mobile to SS/JRNA Sri Gautam Karmakar who in turn sent Memo to the OC/RPF/AGTL & OC/GRP/AGTL and also informed the SS/JRNA who made a diary to SM/Registry Book JRNA on 23.09.2019. On the information OC/RPF/AGTL & OC/GRP/AGTL attended the spot and after doing formalities the dead body was removed from the railway track and shifted to G.B.P Hospital, Agartala West Tripura for postmortem. In the Inquiry it is also found that the body of the deceased was found at Railway KM No.171/2-3 in between AGTL-JRNA section. The applicant, in the statement to the Inquiry Officer stated that her son Alkach Hussain was travelling by train as she had contacted with him over mobile phone on 23.09.2019 and talked and he told he was travelling by train. Later on, his mobile phone was found switched off on calling. After noticing the News Bengal she thought he might have fallen down from the any UP/DN running train which is in contradiction with her action as she had filed a criminal case and not a claim application. That her son was in profession of sending the people to foreign Country, Dubai. Four named persons in criminal case were sent by him to Dubai but they had come back and asked for payment of the money which the deceased had taken from them. They detained him but with the help of local people he was freed. Suspecting their involvement in death of the deceased, she has lodged criminal case. Railway Journey Ticket No. UZA -33552569 was verified

from SS/NKMG who reported that the above tickets were issued on 21.09.2021 and 11.09.2019 respectively but other particulars are not available. Train no.12173 UP Kanchanjanga Express passed from JRNA station at about 19.30 hours on 23.09.2019 as per record of SM/JRNA and the time of the incident is not ascertained because no any eyewitness came forward to establish this fact during enquiry. The dead body was seen lying beside the railway track at about 10.25 hours by the JE/P-WAY/JRNA and accordingly information was circulated. There is no seizure report or recovery of any railway journey ticket. In the above situation it is not possible to ascertain the train thereby the deceased was travelling. FIR lodged by the applicant it shows that it is not a case of accidental fell down from the train. Initially FIR was registered as UDI case which later on converted into murder case and disposed of mutually with the consent of the applicant. It is also stated that the said ticket was not recovered or seized at the time of the inquest over the body of the deceased or final report prepared by IO/GRPS/Agartala. In the above it is asserted that neither the applicant is proved to be bonafide passenger nor the incident is appeared to be accidental fall from the train or criminal attack act. Accordingly, dismissal of the claim application is sought for.

4. Along with written statement the respondent railway has also filed DRM report annexing Inquiry Report of Inquiry Officer along with papers relating to the said incident prepared by Railway Authority/GRP/RPF/Medical. With the DRM Report FIR of criminal case is also available which was registered at GRP Agartala West Tripura as criminal case no.12/2019 of 2019 under Section 302/34 IPC dated 05.10.2019. On the written information of the applicant which is in Bangli therein the fact in respect of journey of the deceased is referred with the date of 21.09.2019 and the information regarding happening on 23.09.2021. Here it is also worth to be mentioned that FIR of UDI Case No.11 of 2009 is also available as exhibit-1 which was registered on the basis of written complaint filed by Babul Hussain cousin brother of the deceased. This written complaint and its English translation is available on the record as exhibit-A2 in which the deceased was said to have been travelling on 21.09.2019 from Karimgang to Agartala. With the DRM report

Investigation Report and Inquiry Report were also filed and before the Investigating Officer the said Babul Hussain stated the same. Post mortem report is also available with the DRM report in which following injury on the body of the deceased were found –

1. Multiple lacerated wound (02 Nos) are present on vertex measuring 10 cm x 04 cm x skull deep and 08 cm x 05 cm x skull deep with underlying depressed comminuted skull fracture and fissured fracture of skull respectively situated 10 cm above the glabella and 05 cm above the upper attachment of left pinna.
2. Multiple contused laceration (02 Nos) on Glabella and bridge of nose measuring 01 cm x 0.4 cm x 0.4 cm and 02 cm x 1.5 cm x bone deep respectively.
3. Multiple abraded contusion (07 Nos) are present on anterior chest wall over an area of 32 cm x 1.5 cm and is situated 09 cm below the suprasternal notch with size ranging from 06 cm x 0.6 cm to 1.3 x 0.4 cm.
4. Multiple contused laceration (04 Nos) are present on lateral aspect of right arm over an area of 30 cm x 14 cm are situated 03 cm below the right shoulder top with size ranging from 10 cm x 02 cm x 0.5 cm x 0.8 cm x 0.4 cm.
5. Multiple abraded conclusion (32 Nos) are present on ulnar aspect o right upper limb over an area of 27 cm x 06 cm and is situated 13 cm below the right shoulder top with size ranging from 10 cm x 1.5 cm to 2.5 cm x 01 cm.
6. Multiple abraded contusion (06 Nos) are present on posterior aspect of left upper limb over an area of 26 cm x 10 cm and is situated 10 cm belowe the left shoulder top with size ranging from 18 cm x 4.5 cm to 03 cm x 1.5 cm with underlying fracture of radius and ulna which is situated 03 cm below left elbow joint.
7. Multiple abraded contusion (65 Nos approx) are present over entire back over an area of 50 cm x 65 cm and is situated 02 cm below the level of shoulder top across mid line with size ranging from 12 cm x 2.5 cm to 03 cm x 0.5 cm.
8. Multiple contused Laceration (03 Nos) on right knee over an area 10 cm x 09 cm with size ranging from 05 cm x 2.5 cm to 1.5 cm to 03 cm x 02 cm.
9. Multiple abraded contusion (06 Nos) on lateral aspect of left knee over an area 07 cm x 06 cm with size ranging from 1.5 cm x 0.5 cm to 06 cm x 3.5 cm.

10. One lacerated wound measuring 06 cm x 2.5 cm x tendon deep on dorsal aspect of right foot and is situated 05 cm distal to right ankle joint.
11. One lacerated wound measuring 1.5 cm x 0.4 cm x tendon deep on dorsal aspect of base of left grant toe.
12. Extravastation of blood in the layers of scalp on frontal and posterior aspect of left parietal region.
13. Duramater is contused. Subdural and Subaracnoid hemorrhage are present on medical aspect of bilateral parietal lobe and occipital lobe. Brain is edematous and congested.
14. Comminuted fracture of base of skull involving left anterior, midele and posterior cranial fossae.

In the postmortem report at Column no.1 time since death is shown about 24 hours to 72 hours. In Column no.J opinion is written as the cause of death in this case is shock and hemorrhage due to multiple injuries caused by the impact and blunt force. All the injuries mentioned here are antemortem in nature and fresh in duration **at the time of death.** However, viscera are preserved and handed over to accompanying police constable for toxicological analysis to rule out any concomitant poisoning or intoxication.

5. On the basis of pleadings of the parties following issues are framed for determination:-

1. Whether the deceased was a bonafide passenger?
2. Whether the death of the deceased was due to an untoward incident as defined under Section 123(c) of the Railways Act, 1989?
3. Whether the applicant is entitled for any compensation? If so, to what sum?
4. Reliefs and costs?

6. In support of her claim application, Applicant Smti. Phatema Bibi has examined herself as AW-1. He has also brought on record documentary evidences such as Exhibit-A1- copy of information of UDI case, A2- copy of FIR, A3-copy of Railway Journey Ticket, A4-copy of inquest report, A5- certified copy of

Postmortem report, A6- copy of charge sheet , A7- ID Proof of the applicant, A8- ID Proof of the deceased.

6.1 Respondent has filed no evidence but relied upon the documents, and statement of the witnesses contained in DRM report which were collected and taken down by the Enquiry Officer.

7. We heard Learned Counsel for the applicant Sri B. C. Das Advocate and Sri H. Gupta, advocate Ld. Counsel for the Respondent Railway and perused the record.

Discussion and findings on issues:

8. Issue No.1 & 2:

- 1. Whether he was a bonafide passenger?**
- 2. Whether the death of the deceased was due to an untoward incident as defined under Section 123(c) of the Railways Act, 1989?**

8.1. Since facts and materials available on the record in respect of the above issues are in dispute in such a manner that for a just and fair adjudication of the above issues require to be taken all the materials regarding the said journey and the incident together while reaching on finding on the issues and in other words they are interdependent therefore, for the sake of brevity and convenience both the issues are taken together for discussion and disposal.

8.2. The applicant has come before this Tribunal with a definite case that on 21.09.20219 in the morning around 5 AM the victim left his home situated in the Vill. Khas Chowmohani, P.S. Melaghar, Sipahijala, Dist.- Sepahijala, Tripura where he was residing with his mother Phatema Bibi for going to Karimganj for some work. On the same day at night at around 8.00 PM he informed the applicant that he was coming from Karimgang to Agartala to his home by train purchasing railway journey ticket. But unfortunately he did not reached on the night and he could also not be contacted thereafter on 23.09.2019 in the morning the applicant came to know

from one Bangla News Channel that one dead body of Alkach Hussan was found at Meghlipara, Kathalchara near railway track. FIR of unnatural death registered at GRP Agartala as UDI Case No. vide no.11/2019 on 23.09.2019 at 17.05 hours on the basis with written application for the same by Babul Hossain cousin brother of the deceased is filed by the applicant as exhibit-A1 and A2 with English translation. In this written complaint Babul Hussain has found to be stated to the Officer Incharge Agartala GRP West Tripura that the deceased on 21/09/2019 was travelling from Karimgang to Agartala by train and on that day at night around 8 pm he informed his mother through mobile that he was coming home by train. On 23.09.2019 at around 1 pm we came at Agartala GRP and got to know that one dead body has been found from Meghlipara near railway track. After seeing the dead body I know that it is the dead body of Alkach Hussan. I presume that my brother died due to fell down from running train during his journey. It is to be mentioned that some papers and one railway journey ticket from Karimgang to Agartala dated 21.09.2019 has been recovered from the possession of the deceased. Two UDI Ticket No.UZA-33552569 dated 21.09.2019 and UZA – 33551733 dated 11.09.2019 is also filed by the applicant as exhibit-A3. Admittedly Tapan Kr. Paul ASI of Police AGT GRPS who on the SS report who attended the spot on 23.09.2019 at 1.30 hours and prepared the inquest. This fact is not in dispute as it is also contained in report of the Inquiry Officer available with the DRM report. The applicant has brought on record copy of the Inquest report as exhibit-4 with English translation. In the inquest report it is clearly mentioned in Para 3 of the report that after careful examination of the deceased one railway journey ticket one voter ID Card have been recovered from the dead body.

8.3. Later on 03.10.2019 about after 12 days of the alleged incident and after 10 days from recovery of the dead body on 23.09.2019 on written complaint by the applicant Phatema Bibi herself a criminal case no.12/2019 under Section 302/34 IPC is registered at GRP Agartala converting the UDI case in a criminal case on the allegation that the deceased passenger was used to sent people to abroad. Recently he had sent four person namely Md. Kabir Hossein, Md. Maynal Hossein, Md.

Samraj Khan and Tajul Islam but all four person return back from Dubai about one month back and all the four person had detained her son at Boxanagar road and assaulted for refund the money paid by them. After that local people of the area went there and rescue her son with assurance to return the money on 30.09.2019. So the complainant named all the above name persons in FIR suspecting being involved in the death of her son.

8.4. Here it is noticeable that the complainant herself got the above criminal FIR registered and the claim application under Section 124/124-A of the Railways Act has been preferred very belatedly after a lapse of about 640 days.

8.5. In the above scenario the respondent railway has stated that the applicant case of falling down of the deceased from the running train is doubtful but it appears that neither the respondent nor the Enquiry Officer tried to go through the FIR and summary of the case written down by the IO in the final report. Copy of the summary of the case as FR, available with the DRM report, shows that the Investigating Officer of the criminal case has made thorow investigation of the case and on the basis of materials collected by him the suspected peoples did not found involved in the case as murderer of the deceased passenger. The FIR as well as statement of the applicant given to the investigating officer, show that the applicant got the first information report of the criminal case registered on the basis of suspicion in the background as stated above. Later on, the applicant is said set to file affidavit to the effect that she along with her relative and named persons compromised locally. Regarding filling of the complaint against them and withdrawal of the case, it was stated that she lodged the FIR being mentally dis-balance due to death of her son. Be it noticed that the investigating officer has collected mobile number of accused persons and the deceased and got their call details and found no matching to the effect that the accused were at place of occurrence or with the deceased on the faithful day. In fact on the basis of evidence collected by investigating officer he concluded that the named person had no hand in the death of the deceased, while as per medical opinion of the doctor conducting

postmortem of the dead body opined that the injury was caused by the impact and blunt force.

8.6. In view of the above, even if the applicant found got registered criminal case for the death of her son against the certain person as case of murder but it was based on only suspicion/speculation which was found as not to be true by the investigating officer on the basis of thorow investigation and collected material. In these backdrops, the applicant had withdrawn her complaint against the named person which were her relative. In our view the above conduct of the applicant in the above situation cannot be considered as converting a criminal case of murder falsely into a falling down case of the deceased from the running train for unduly getting compensation amount under the Railways Act rather, the case is required to be examined and tested leaving the above aspect and development of the case which turned untrue and baseless and was only based on suspicion and speculation in the backdrop of previous enmity and quarrel between the named persons and the deceased.

8.7. Further, as has been mentioned earlier the dead body of the deceased was found lying with the railway track. Photographs of the spot available with the DRM report shows that the body was under bushes. Although the body was seen, found on 23.09.2019 but in the postmortem report the doctor has opined the time of death as 24 to 72 hours earlier. In view of the injuries found on the body of the deceased which were referred to in details in earlier part of the judgment and the place of occurrence it cannot be ruled out that the injuries could be caused to the deceased by falling down from the running train. The doctor though opined in the postmortem report that the injuries are antimortem in the nature and fresh in duration but at the same time it is also mentioned that at the time of death. If the death is considered before 72 hours from the postmortem then how could the injury be fresh. Since, the fresh in duration is qualified with at the time of death, it means that doctor is intended to said that at the time of death the injuries duration was fresh otherwise at the time of postmortem when the death occurred 72 hours before how could the injury can be termed as fresh in duration. If we took the duration of the injury as

above i.e., fresh at the time of death which is 24 to 72 hours it can easily be taken up to the night of 21.09.2019 the time, where at the applicant alleges the deceased had fallen down from the train. Thus, the time of the death as shown in the postmortem report about 24 to 72 hours, if we connect this 72 hours from the time and date of the postmortem again the death and probable time stated in the claim application is corroborated and since the duration of 72 hours in favour of the applicant therefore, this time which is favour of the applicant is required to be taken into consideration keeping in view the nature of the provision of compensation in the Railways Act as beneficial legislation.

8.8. As far as railway journey ticket for the applicant's alleged journey on 21.09.2019 from Karimgang to Agartala by Kanchanjanga Express is concerned, the applicants at exhibit A3 brought on record UTS Ticket No. UZA -33552569 issued on 21.09.2011 and UZA – 33551733 dated 11.09.2019 NKMG (Karimgang station) about which report of SS/NKMG is available with the DRM report which certified that the above tickets were issued for Kanchanjanga Express on 21.09.2019 and 11.09.2019 respectively. The respondent railway has raised doubt about the veracity of this above two tickets said to have been seized from the possession of the deceased at the spot stating that no seizure list or original ticket made available. Moreover, the Police authority did not show recovery of such tickets. However, it seems that the respondent's above suspicion is based on description given in column no.10 of final report under Section 173 Cr.PC in the criminal case no.12/2019 u/s 302/34 of the IPC P.S GRP Agartala. In this column, details of properties/articles/documents recovered/seized during investigation and relied upon is given with a list below in which there is no mention of journey ticket but if we go through the summary of the investigation there upon final report was forwarded to the concerned Magistrate, it is not in doubt that the articles given in the list as having been seized during the investigation are those which were collected by the Investigating Officer to ascertain the truth of the allegations made in the criminal FIR by the applicant regarding suspected murder of his son and in this list, articles seizure thereof were made at the spot by the GRP are not mentioned and taken into

consideration, perhaps as being not relevant to the murder case. The applicant brought on record as exhibit-A2 Inquest Report prepared at the spot by the ASI Tapan Kr. Paul GRPS AGT dated 23.09.2019 who attended the spot on getting information from concerned SS. The Inquest Report shows that it was prepared in the presence of witness namely Sanjib Das and Krishnagopal Debnath in which with other details of the deceased it is also mentioned that after careful examination of the deceased one railway journey ticket, one voter ID card have been recovered from the dead body. This aspect of Inquest Report were not inquired by the Inquiry Officer but the Inquiry Officer suppressed this very vital documents. The first informant of the UDI Case Babul Hussain has also clearly mentioned in the FIR that some papers and railway journey ticket from Karimgang to Agartala dated 21.09.2019 were recovered from the possession of deceased. Thus, these papers connect the UDI tickets produced by the applicant as Exhibit A3. In the cross-examination of applicant as AW-1 respondent railway has not asked any question about as to how these tickets have come in her possession. In this background it appears that both this tickets were recovered from the body of the deceased during the inquest by the ASI of GRP Agartala. There is contradiction of reference of ticket viz. ticket available as Exhibit at A3. In the Inquest Report reference is that one railway journey ticket, one voter ID Card have been recovered from the possession of the deceased. The Inquest Report does not bear number of ticket. It may be that both tickets have been together which was not ascertain by the Officer concern and he might only refer in the inquest about recovery of one ticket from the possession of the deceased. Since, the respondent railway has not seek any explanation in the cross-examination from the applicant regarding this unusual aspect of the journey ticket, therefore, keeping in view the beneficial legislation of the provision of the Railways Act 1989 if any one of this ticket gets connected with the deceased's alleged journey he should be considered as bonafide passenger.

8.9. As mentioned earlier, as per report from SS/Karimgang ticket. No. UZA - 33552569 was issued on 21.09.2019 while ticket no.UZA – 33551733 was issued on 11.09.2019. The respondent railway has not brought on record any such evidence

whether the said train passed from the spot during its journey from Karimgang to Agartala in the night of 21.09.2019 or not. There is also no enquiry to this aspect of the case rather, the railway Enquiry and the defence is concentrated on 23.09.2019, the date on which the body of the deceased was found lying in the bushes near the railway track and on that basis it has taken defence that the deceased passenger could not be a passenger of the Kanchanjanga Express on 23.09.2019 as in the possession of the deceased's ticket no. 33552569 dated 21.09.2019 was recovered. But as we found in earlier discussion that the applicant's case was nowhere from inception that the deceased was travelling from Karimgang to Agartala by Kanchanjanga Express on 23.09.2019 instead if we look into first information report given by the Babul Hussain the cousin brother of the deceased in P.S. GRP Agartala the deceased was said to have been travelling in the night of 21.09.2019 from Karimgang to Agartala. The FIR of the criminal case filed by the applicant Phatema Bibi is also available on record with DRM Report there in again the same date has been mentioned. In view of the medical opinion contained in PMR as referred earlier the deceased was possibly and with preponderance of probabilities died on the night of 21.09.2019 due to injuries suffered to him due to falling down from the running train. With these evidences a contrary thing appears in the statement of Phatema Bibi taken down by the Enquiry Officer and available with the DRM Report in which she has referred incident as to be happened on 23.09.2019 but in the claim application as well as her statement as AW-1 before this Tribunal he has clearly stated that the victim was travelling on 21.09.2019 from Karimgang to Agartala. We have gone through the cross-examination of this witness by the respondent railway and found the attentions of this witness was not drawn by the Ld. Counsel for the respondent towards her statement available with the DRM Report which states happening of the incident on 23.09.2019. Therefore his chief-examination in respect of the date of incident is taken as reliable proof. If we have took the whole above evidences together we have no hesitation to hold that the statement of this witness taken down by the Enquiry Officer during enquiry in which the applicant is shown to have said the date of incident on 23.09.2019 is erroneous, wrong and not reliable keeping in

view the other evidences of being earlier much in time from this statement as well as medical evidence.

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8.10. For the above discussion and the reason stated herein above the only conclusion can be drawn on the basis of material available on the record is that the deceased passenger namely Alkach Hussain was a bonafide passenger having valid railway journey ticket and he has died in an untoward incident as define 123 (c) (2) 1989. Accordingly, issue no.1 & 2 are decided in affirmatively in favour of the applicant and against the respondent railway.

9. Issue No.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?

9.1 The deceased passenger Alkach Hussain is said to be unmarried. The applicant has filed Adhaar Card of the deceased in which address of the deceased mentioned in Police papers and his identity papers are same as of the applicant mentioned in her own Adhaar Card. At Exhibit-A8 PAN Card number of the deceased Alkach Hussain is available in which Safik Miah is shown as father while in Adhaar Card Exhibit-A7 husband of the applicant Phatema Beibi is shown as wife of Safik Miah. In Enquiry report also the Enquiry Officer has examine the applicant and there is no whisper that applicant is not the mother of the deceased. In the claim application applicant itself stated that Safik Miah the father of the deceased is alive but he left the home and presently living in Bangladesh with his new family. This fact has been proved through affidavit evidence and there is no fact contravening the same. Babul Hussain the cousin brother of the deceased is also examined by the Enquiry Officer and in his statement to the Enquiry Officer also noting contrary is available. In this circumstances it is proved that the applicant is only dependent of the deceased as being his mother therefore, he is entitled to get compensation for the death of his deceased son Alkach Hussain in an untoward incident under Section 124-A of the Railway Act, 1989. Here it is also mentioned that the death of the

deceased is nowhere said to be come under the exception of Section 124-A as there is no such evidence brought on record nor the respondent railway has taken any such defence. Accordingly, this issue is also decided in favour of the applicant and against the respondent railway.

10. Issue No.4:

Relief:

In view of the conclusion drawn on the issue 1,2 & 3 as the above the applicants is proved to be entitled for statutory compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only) with a simple interest @ 6% Per annum from the date of registration of the Original Claim Application i.e 23.06.2022 up to the date of this award to the applicant namely Smti. Phatema Bibi from the Respondent Railway. No provision for cost is required to be ordered. Accordingly, issue no.4 is decided.

Conclusion:

11. On the discussions and findings as above on the issues framed in this case the claim application is liable to be allowed for payment of Rs.8,00,000/- (Rupees Eight Lakhs only) compensation along with simple interest @ 6% Per annum from the date of Registration of original application up to the date of this award to the applicant namely Smti. Phatema Bibi (mother of the deceased) from the Respondent Railway. The compensation amount along with interest shall be paid within 90 days from the date of the receipt of copy of this award failing which, applicant shall be entitled to receive interest @ 9% per annum from the 91st day of the receipt of the order till the actual date of depositing the decreed amount with the Additional Registrar, RCT/Guwahati. The Compensation amount is directed to be distributed as under.

ORDER

I. The original application is allowed on contest against the Respondent. Respondent is directed to make payment of statutory amount of Rs.8,00,000/- (Rupees Eight lakhs only) to the applicants namely Smti Phatema Bibi (mother of

the deceased) along with simple interest @ 6% (Six percent) per annum from the date of registration of original claim application i.e. 23.06.2022 upto the date of this award. The compensation amount along with interest shall be paid within 90 days from the date of the receipt of copy of this award failing which, applicant shall be entitled to receive interest @ 9% per annum from the 91st day of the receipt of the order till the actual date of depositing the decreed amount with the Additional Registrar, RCT/Guwahati. The Compensation amount is directed to be distributed as under.

a) The compensation amount of Rs.8,00,000/-(Rupees Eight Lakhs only) along with whole pendente lite interest on the whole compensation amount shall be payable to the wife of the deceased namely Smti Phatema Bibi, out of which Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) along with pendente lite interest shall be payable to her immediately through RTGS/NEFT transfer out of the rest amount of Rs.6,50,000/-(Rupees Six Lakh Fifty Thousand only) there will be 6 (six) fixed deposit of Rs.1,00,000/- (Rupees one lakh only) each for 1year, 2year, 3year, 4year, 5year and 6year respectively. Balance amount of Rs.50,000/- (Fifty Thousand only) shall also be kept in fixed deposit for 7year in a Nationalized Bank. On maturing the fixed deposits, the entire amount along with interest accrued during the fixed deposit shall be transferred to her Savings Bank Account.

II. The Respondent Railway is hereby directed to deposit the awarded amount with the Additional Registrar of this Railway Claim Tribunal within a period of Ninety days from the date of receipt of this order.

III. While deciding the mode of payment, Geeta Devi Case and the Para-5 of the Ministry of Railways notification dated 3rd 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.

IV. 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 3rd June, 2020 issued under F. No.-2019/TC-III/26/3.

V. 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.

VI. 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.

VII. 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.

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

IX. This original application stands disposed of accordingly.

X. 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

Date: 13.06.2024

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