



रेल दावा न्यायाधिकरण  
जयपुर न्यायपीठ  
RAILWAY CLAIMS TRIBUNAL  
JAIPUR BENCH

Claim Application No. OA-II-105/2020



**CORAM:** Ms. Jhanja Tripathy, Hon'ble Member (Technical).

**Date of Registration:** 18.08.2020

**Date of Judgment:** 06.12.2023

1. Kanhaiya Lal Bairwa son of Shri Ramsiram Bairwa, aged 56 years.
2. Lalli Devi wife of Shri Kanhaiya Lal Bairwa.

Both are residents of Village Thoomra, Tehsil Raini, District Alwar (Rajasthan) PIN - 301 409.

.....Applicants

**Versus**

Union of India through the General Manager, North Western Railway, Jaipur (Rajasthan).

....Respondent

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

**PRESENT**

Mr. Rajesh Panda, learned counsel for the applicants.

Mr. Jangbahadur Khan, learned counsel for the respondent.

**JUDGMENT**

1. This claim application has been preferred before this Tribunal by the parents of the deceased, being the only dependants, under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 125 of the Railways Act, 1989 claiming compensation of Rs.8,00,000/- along with interest on account of death of their unmarried son Shri Chhotelal in an alleged untoward incident.



2. It is the case of the applicants that on 24.5.2019 Shri Chhotelal along with his one companion commenced their journey from Mandawar to Jaipur by Train No.12195 i.e. Agra Intercity holding a valid second class railway journey ticket bearing No.91353586, valid for two adults. During journey, Shri Chhotelal accidentally fell down from the running train short of Banskho railway station between Dausa and Jaipur railway stations and suffered multiple grievous injuries. Further, he was shifted to SMS Hospital, Jaipur but the injuries suffered by him ultimately proved fatal and he died during treatment on the same day. It has further been averred in the claim application that the Police on receipt of the information about this incident, registered a Marg Report under Section 174 Cr.P.C. and also completed other requisite formalities including postmortem on the dead body and handed it over to the family members for final rituals.
3. To substantiate their claim, the applicants have made available on record certified copies of the FIR, Postmortem Report, original railway journey ticket, Fard Supurdagi Laash, true copies of the Death Certificate, Aadhaar Cards, Family Ration Card and Bank details.
4. On receipt of the notice, the respondent Railway Administration appeared before the Tribunal and filed its written statement along with the original DRM's Report pleading therein that present claim application has been filed by the applicants on the basis of false averments. Hence, the same *prima facie* deserves to be dismissed. It has been pleaded on behalf of the respondent Railway Administration that the claim application filed by the applicants is not maintainable under Section 123, 124 and 125 of the Railways Act, 1989. The applicants have not lodged any FIR against the person who pushed the deceased. The deceased was not travelling with his companion. The applicants have not disclosed the name of the person who handed over the ticket to the Police. During search

made on the person of the dead body, no ticket was recovered. Hence, the deceased was not a bonafide passenger of the train in question at the relevant time. As per the Loco Pilot and Guard of Train No.12195, none fell down from their train on that day. The burden lies upon the applicants to prove their own case. On the basis of these and other pleas, dismissal of the claim application has been sought by the respondent Railway Administration.



5. Based on the pleadings of the parties and material made available on record, following issues were formulated by the Tribunal on 21.6.2021:

- 1) *Whether the deceased was a bonafide passenger of the alleged train at the relevant time?*
  - 2) *Whether the deceased died as a result of an untoward incident due to a fall from the passenger carrying train and whether the present case is covered under the definition of Section 123 (c) (2) of the Railways Act, 1989?*
  - 3) *Whether the applicants are the sole dependants of the deceased and are entitled to compensation as claimed under Para-16 of the claim application?*
  - 4) *Relief?*
6. In the evidence, applicant No.1 Shri Kanhaiya Lal Bairwa has filed his own examination-in-chief on affidavit along with the original railway journey ticket and copies of certain documents. The document filed on behalf of the applicants, were got exhibited by him as A/1 to A/11. He was cross-examined by learned counsel for the respondent Railway Administration on 14.9.2022.
7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavit of Shri Hari Singh Gurjar, Investigation Officer who got the DRM's Report exhibited as R/1. He was cross-examined by learned counsel for the applicants on 13.4.2023.

## FINDINGS

8. I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them and heard the arguments advanced on behalf of both the sides by their counsels. My findings on the aforesaid issues are as follows:

### Issue No.1 & 2:

Both these issues are being taken up and decided together.

10. Applicant No.1 Shri Kanhaiya Lal Bairwa has deposed by way of his affidavit that on 24.5.2019 his son Shri Chhotelal along with his one companion were travelling from Mandawar Mahwa Road to Jaipur by Train No.12195 i.e. Agra Intercity holding a valid second class railway journey ticket bearing No.91353586, valid for two adults. During journey, Shri Chhotelal accidentally fell down from the running train short of Banskho railway station between Dausa and Jaipur railway stations and suffered multiple grievous injuries. Further, he was shifted to SMS Hospital, Jaipur but his life could not be saved and he died during treatment on 24.5.2019. It has further been deposed by him that the Police after completion of certain requisite formalities including postmortem on the dead body, handed it over to the family members for last rites. The original railway journey ticket on which Shri Chhotelal and his co-traveller, were performing their aforesaid journey has been filed along with the claim application. Her son Shri Chhotelal was a bonafide passenger of the train in question at the time of occurrence of the incident. During cross-examination, he has stated that he was not travelling with his son. His son was travelling from Mandawar to Jaipur. The documents filed along with the claim application, were got exhibited by him as Ex.A/1 to A/11.

11. *Per contra*, learned counsel for the respondent has argued that the deceased was not a bonafide passenger of the train in question at





the relevant time as no ticket was recovered from the person of the deceased during search. The ticket claimed to have been handed over to the Police, was managed subsequently to prove the fact that deceased was a bonafide passenger at the time of occurrence of the incident. He has further argued that the death of Shri Chhotelal did not happen due to alleged untoward incident within the meaning of Section 123 (c) (2) of the Railways Act, 1989 as there is no witness to the incident. The death of Shri Chhotelal happened due to his own criminal act and, therefore, the alleged incident is covered under clause (b) and (c) to the proviso to Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicants. It has also been argued by him that the said fact stands corroborated with the testimony of the witness of the respondent and the original DRM's Report. Hence, the claim application is liable to be dismissed with costs.

12. I have carefully heard the submission made by both the parties and also perused the material made available on record by them.
13. The witness of the respondent Railway Administration Shri Hari Singh Gurjar, Investigation Officer has deposed by way of his affidavit that enquiry in the present matter was conducted by him. As per the statements of Shri Vikram Singh, Sub Inspector, RPF, Post Dausa, he was informed that a person has fallen down between Jatwara and Jhir railway stations due to his own negligence. The said person was shifted to Hospital by 108 Ambulance Service. He has further deposed that as per the statements of Shri Ram Prasad Meena, Station Master Train No.12195 halted on account of alarm chain pulling after passing of Jatwara railway station. On query, it was told by the fellow train passengers that a person has fallen down from the train. On this, the Guard of the said train issued a Memo to this effect. It has also been deposed by him that the ticket filed along with the claim application on verification, was found to

be valid. However, there are no details of recovery of the said ticket from the person of the injured now deceased.



14. From the testimony of this witness of the respondent Railway Administration, it is amply clear that the deceased fell down from the train and subsequently alarm chain was also pulled by the fellow train passengers. Besides, the ticket filed by the applicants along with the claim application on verification, was also found valid.
15. The respondent Railway Administration has not adduced any evidence to show that the ticket filed along with the claim application, was managed subsequently to prove the fact that deceased at the material time, was a bonafide passenger of the said train. The respondent Railway Administration has not produced any documentary evidence on record that an extensive search was made on the person of the injured now deceased and no ticket was recovered.
16. Ex.A/1 is the original railway journey ticket and perusal of the same indicates that the aforesaid ticket was issued in favour of two adults to perform their journey from Mandawar Mahwa Road to Jaipur on 24.5.2019. The fact that the deceased at the material time, was travelling the aforesaid ticket, has also been admitted in the DRM's Report.
17. The copy of Memo dated 24.5.2019 issued by Shri Sanjeev Kumar, Guard of Train No. 12195 addressed to the CTNL/Jaipur and the Deputy Station Supdt., Jhir, is available at Page-41 of the DRM's Report and it has specifically been mentioned therein that after alarm chain pulling of his train at Kms.199/6, he was informed by the passengers that a person has fallen down from the train.
18. Although it has been argued on behalf of the respondent Railway Administration that deceased met with this incident due to his own



criminal act, no supportive evidence whatsoever has been adduced by them. A mere plea without any cogent or reliable evidence, in my considered view, is not sufficient to draw an adverse inference particularly when falling down of Shri Chhotelal has not been disputed by the respondent Railway Administration.

The Railways Act, 1989 is a social beneficial piece of legislation to protect the bonafide travellers who have a valid ticket or authority as per the definition of Section 2 (29) read with Section 124A of the Railways Act, 1989. The action claimed under Section 124A of the Railways Act, 1989 is, thus, maintainable and it has been held to be in a form of a no fault liability for which the Railways are liable to pay compensation and an action is liable to be maintained on that account and compensation is to be paid.

20. Reliance is placed on the judgments passed by the Hon'ble Supreme Court in the case of *Union of India v. Prabhakaran Vijaya Kumar (2008) 9 SCC 527* and *Union of India v. Rina Devi 2018 SCC OnLine SC 507*.
21. In view of the judgments quoted above, my discussion in foregoing paras and looking at the facts and circumstances of the case in hand, it is held that deceased Shri Chhotelal was a bonafide passenger of the train in question at the material time within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 and his death happened due to an untoward incident as a result of a fall from the passenger carrying train as defined under Section 123 (c) (2) read with Section 124A of the Railways Act, 1989. Accordingly both these issues are decided in favour of the applicants and against the respondent.

**Issue No.3 & 4:**

22. Both these issues are being dealt with and decided together.



23. Case in hand has been filed before this Tribunal by the parents of the deceased being the only dependants. Applicant No.1 Shri Kanhaiya Lal Bairwa vide Para-5 of his affidavit, has deposed that deceased Shri Chhotelal was his unmarried son and the present applicants are the only dependants of the deceased. During cross-examination nothing contradictory has come out. To prove their dependence, true copies of the Aadhaar Cards and Family Ration Cards have been made available on record by the applicants as Ex.A/8 and A/11 respectively. On the contrary, no evidence whatsoever has been adduced on behalf of the respondent Railway Administration to rebut the case of the applicants on the point of their dependence. Moreover, during pendency of the claim application, none else appeared before the Tribunal claiming himself/herself as one of the dependants and the sole dependant of the deceased.
24. Applying the principles laid down in *Rina Devi (supra)* in the present case, it is held that the present applicants being the only dependants of the deceased within the meaning of Section 123 (b) (i) of the Railways Act, 1989, are entitled to get an amount of Rs.8,00,000/- as compensation as prescribed under Part-I of the Schedule appended to Rule 3 (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 along with interest @ 9% per annum from the date of incident i.e. 24.5.2019 till the date of award. Both these issues are decided accordingly.

#### ORDER

25. The claim application is allowed in favour of the applicants. The respondent Railway administration is directed to pay Rs.8,00,000/- to them as compensation along with interest @ 9% per annum from the date of incident i.e. 24.5.2019 till the date of award.

26. The payment shall be made to the applicants in the manner described as under:



| <b>Name of the applicants</b>                       | <b>Amount to be paid to the applicants immediately by NEFT/RTGS</b>             | <b>Amount to be invested in fixed deposit scheme of a Nationalized Bank and the amount of interest to be credited to their SB Account</b>                                                                                                  |
|-----------------------------------------------------|---------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Kanhaiya Lal Bairwa (father of the deceased)</i> | <i>Rs.40,000/- (Rs. forty thousand only) along with proportionate interest.</i> | <i>Rs.3,60,000/- (Rupees three lakh sixty thousand only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount shall be credited to his SB Account.</i> |
| <i>Lalli Devi (mother of the deceased)</i>          | <i>Rs.40,000/- (Rs. forty thousand only) along with proportionate interest.</i> | <i>Rs.3,60,000/- (Rupees three lakh sixty thousand only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount shall be credited to her SB Account.</i> |

27. The respondent Railway Administration is hereby directed to deposit the amount awarded with the Additional Registrar of this Tribunal within a period of 60 days failing which the applicants shall also be entitled to receive interest @ 9% per annum from the date of award till the actual date of depositing the amount with the Additional Registrar.
28. The applicants are hereby directed to submit the details of their Aadhaar linked Bank accounts of a Nationalized Bank situated nearest to their place of residence to the Additional Registrar of this Tribunal.



29. The Bank shall not permit any joint name(s) to be added in the saving bank account or fixed deposit account of the applicants i.e. their Saving Bank Accounts shall be an individual Saving Bank Account and not a Joint Account.
30. The maturity amounts of the FDRs be credited by Electronic Clearing System (ECS) in the said Saving Bank Accounts of the applicants.
31. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.
32. The concerned Bank shall not issue any cheque book and/or debit card to the applicants. However, in case the debit cards and/or cheque books have already been issued, Bank shall cancel the same before the disbursement of award amount. The Bank shall freeze the accounts of the applicants so that no debit cards be issued in respect of the account of the applicants from any other Branch of the Bank.
33. The Bank shall make an endorsement on the passbooks of the applicants to the effect that no cheque book and/or debit card have been issued or will be issued without the permission of the Tribunal and the applicants shall produce the passbooks with the necessary endorsement duly signed and stamped by the Bank before the Additional Registrar of this Tribunal. The Bank is further directed to permit the applicants to withdraw money from their Saving Bank Accounts by means of a withdrawal form only.
34. The Respondent Railway Administration is also directed to place on record the proof of deposit of the award amount with up-to-date interest along with a calculation sheet and the same shall be filed with the Additional Registrar.



35. In the facts and circumstances of the case, there is, however, no order as to costs.
36. Registry is directed to send a free certified copy of this judgment directly to the applicants at their postal address mentioned in the claim application by Speed Post in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.
37. Judgment pronounced, signed and sealed in open Court today i.e. 06.12.2023.

(Signature)  
Member (Technical)  
RCT/Jaipur