



सत्यमेव जयते

रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No.OA-II-110/2020

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

Date of Registration: 08.09.2020
Date of Judgment: 21.05.2024

1. Smt. Paramjeet wife of Late Shri Darshanram alias Darshan Singh, aged about 31 years.
2. Manpreet alias Maniram son of Late Shri Darshanram alias Darshan Singh, aged about 15 years.
3. Suresh Kumar son of Late Shri Darshanram alias Darshan Singh, aged about 13 years.
4. Chandram Bazigar son of Shri Chananpuri, aged about 56 years.
5. Smt. Karatar Devi wife of Shri Chandram, aged about 56 years.

Applicants No.2 & 3 being minor hence, through their natural guardian and mother Smt. Paramjeet wife of Shri Darshanram alias Darshan Singh.

All are residents of Ward No.30, Professor Colony, Nohar, Hanumangarh (Rajasthan).

.....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. Arvind Kumar Pareek, learned counsel for the respondent.

JUDGMENT

1. This claim application has been preferred before this Tribunal by the wife, minor sons and 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 Shri Darshanram alias Darshan Singh in an alleged untoward incident.
2. It is the case of the applicants that in the night of 04.6.2019 Shri Darshanram alias Darshan Singh commenced his journey from Nohar to Gogamedi by Train No. 54767 holding a valid second class railway journey ticket. During journey, in the intervening night of 04/05-6-2019 Shri Darshanram alias Darshan Singh accidentally fell down from the running train near Nohar between Kms.77/02-03, suffered grave injuries and died on the spot. Further, in the morning of 05.6.2019, the Station Superintendent on receipt of the information about lying of a dead body near the railway track by the Keyman, in turn, informed the Police. The Police acting on the same, registered a Marg Report and also completed other mandatory formalities under Section 174 Cr.P.C. including postmortem on the dead body and handed it over to the family members for final rituals. It has been stated by the applicants that the relevant railway journey ticket on which Shri Darshanram alias Darshan Singh was performing his aforesaid journey, was lost during the course of incident and that he was a bonafide passenger of the train in question at the time of occurrence of the incident.
3. To strengthen their claim, the applicants have made available on record copies of the Marg Report, Postmortem Report, Final Report, Aadhaar Cards, Family Ration Cards and their 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 denying all the averments made in the claim application. It has been pleaded on behalf of the respondent Railway Administration that the age of the deceased has been mentioned in the claim application as 34 years whereas the Postmortem Report indicates the age of the deceased as 25 years which creates doubt. It has further been pleaded on behalf of the respondent Railway Administration that during investigation, it was found that on 4.6.2019 only one ticket ex. Nohar to Gogamedi was sold for Train No.4776. No ticket ex. Nohar to Gogamedi was sold for Train No.54767 on that day. Thus, it is proved that the deceased was not a bonafide passenger of the alleged train within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989. The distance between Nohar to Gogamedi is only 26 Kms. and the Train No.54767 arrives at Gogamedi at 00.21 hours. The dead body of Shri Darshanram alias Darshan Singh was spotted in the morning of 5.6.2019 and during this period several trains were passed through the site of incident but none of the Driver or Guard of the said trains informed about lying of a dead body near the railway track. During search made on the person of the deceased, only a cash of Rs.20/- was found and no ticket was recovered. As per the statements of the family members, the deceased was an alcohol addict. Besides, the deceased was a resident of nearby area and the distance between the house of the deceased and the place of incident is only 1 - 1 1/2 Km. The site of incident lies in a populated area and, therefore, lying of a dead body undetected for more than 7 - 8 hours, is not possible. 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. 4 Shri Chandram has filed his own examination-in-chief on affidavit. The documents filed along with the claim application, were got exhibited by him as A/1 to A/10. He was cross-examined by learned counsel for the respondent Railway Administration on 1.11.2022.

7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavit of Shri Dharmendra Kumar Soni, Chief Booking Supervisor. The relevant document was got exhibited by him as R/2. He was cross-examined by learned counsel for the applicants on 3.8.2023.

FINDINGS

8. I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them, case law filed by learned counsel for the applicants 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:

9. Applicant No.4 Shri Chandram has deposed by way of his affidavit that in the night of 04.6.2019 his son Shri Darshanram alias Darshan Singh commenced his journey from Nohar to Gogamedi by Train No. 54767 holding a valid second class railway journey ticket. During journey, in the intervening night of 04/05-6-2019 Shri Darshanram alias Darshan Singh accidentally fell down from the running train near Nohar between Kms.77/02-03, suffered grave injuries and died on the spot. Further, in the morning of 05.6.2019, the Station Superintendent on receipt of the information about lying of a dead body near the railway track by the Keyman, in turn, informed the Police. The Police acting on the same, completed certain requisite formalities including postmortem on the dead body and handed it over to the family members for final rituals. It has further been deposed by him that the relevant railway journey ticket on which his son Shri Darshanram alias Darshan Singh was performing his aforesaid journey, was lost during the course of incident and that he 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 is aware of the averments made in the claim application. His son was alone at that time and he is not aware if his son purchased the ticket or not but he used to purchase the ticket. The documents filed along with the claim application, were got exhibited by him as A/1 to A/10.
10. *Per contra*, learned counsel for the respondent has vehemently argued that deceased was not a bonafide passenger at the relevant time within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 as during search, no ticket was recovered from his possession. He has further argued that on 4.6.2019 no ticket was sold from Nohar to Gogamedi for the said train. Hence, it is established that the deceased did not purchase the ticket. It has also been argued by him that the distance between Nohar to Gogamedi is only 26 Kms. and the dead body was found about 1 1/2

Km. away from the house of the deceased. Besides, the site of alleged incident is situated in a populated area and it is next to impossible that the dead kept lying there unspotted and unattended for 7-8 hours. Besides, during this period several trains were passed through the site of incident but none of the crew member informed about lying of a dead body. He has further argued that this fact stands corroborated with the testimony of the witness of the respondent Railway Administration and the original DRM's Report. Hence, the claim application filed by the applicants is liable to be dismissed with heavy costs.

11. I have carefully heard the submission made by both the parties and also perused the material made available on record by them.
12. Witness of the respondent Railway Administration Shri Dharmendra Kumar Soni, Chief Booking Supervisor has deposed by way of his affidavit that on 4.6.2019 he was posted as Booking Supervisor at Nohar railway station. That answering to a query made by the Inspector, RPF Post, Hanumangarh, it was replied by him that on 4.6.2019 no ticket from Nohar Gogamedi was sold for Train No.54767. During cross-examination nothing contradictory has come out.
13. From the testimony of the witness of the respondent Railway Administration, it is established that on 4.6.2019 no ticket was sold for Train No.54767. This fact further stands confirmed from the extracts of the Detailed Transaction Checklist (DTC) available with the original DRM's Report. Hence, it is established that deceased did not purchase any ticket on that day and, therefore, he cannot be termed as a bonafide passenger within the meaning of Section 2 (24) read with Section 124A of the Railways Act, 1989.
14. Besides, the Enquiry Officer while submitting the Enquiry Report before the competent authority after detailed investigation, has also

concluded that on 4.6.2019 no ticket was issued from Nohar to Gogamedi.

15. It is pertinent to state here that Section 191 of the Railways Act, 1989 clearly stipulates that '*entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and standing that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession.*'
16. In the instant case although the applicants have discharged the initial burden of proof by filing the affidavit of applicant No.4 Shri Chandram in view of law and principle laid down in **Union of India v. Rina Devi**, 2018 SCC OnLine SC 507, simultaneously it is also true that his testimony cannot be taken into consideration in the light of evidence adduced on behalf of the respondent Railway Administration that no ticket was issued from Nohar to Gogamedi on that day i.e. 4.6.2019.
17. Hence, in view of the law and principle laid down by the Hon'ble Supreme Court in the case of **Union of India v. Rina Devi** (*supra*), the respondent Railway Administration while discharging the burden of proof *prima facie* shifted upon them, has succeeded in establishing the fact by way of sufficient evidence both oral and documentary that deceased Shri Darshanram alias Darshan Singh was not a bonafide passenger on that day within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989.

18. The case laws filed by learned counsel for the applicants have no relevance with the present matter being not identical on merits.

19. In view of the judgment quoted above, my discussions in foregoing paras and looking at the facts and circumstances of the case, it is held that deceased Shri Darshanram alias Darshan Singh was not a bonafide passenger of the alleged train within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 at the material time. Accordingly this issue is decided against the applicants and in favour of the respondent.

Issue No. 2 & 3 -

20. In view of my findings on Issue No.1 above, both these issues have become redundant and, therefore, need no further deliberation.

Issue No.4 -

21. In view of my findings on Issue No.1, the applicants are not entitled to any relief whatsoever from the respondent Railway Administration.

ORDER

22. The claim application of the applicants fails and is hereby dismissed. Parties to bear their own costs.

23. Judgement pronounced, signed and sealed in open Court today i.e.

21.05.2024.

**(Jhanja Tripathy)
Member (Technical)
RCT/Jaipur**