



रेल दावा न्यायाधिकरण  
जयपुर न्यायपीठ  
RAILWAY CLAIMS TRIBUNAL  
JAIPUR BENCH

Claim Application No. OA-II-163/2019

**CORAM:** Mr. Umesh Kumar Sharma, Hon'ble Member (Judicial).  
Ms. Jhanja Tripathy, Hon'ble Member (Technical).

Date of Registration: 09.08.2019

Date of Judgment: 26.12.2023

1. Akhraj son of Shri Narain, aged 57 years (*died during pendency of the claim application*).
2. Jeeva Devi wife of Shri Akhraj, aged 55 years.

1/1. Amar Singh Rebari son of Akhraj Rebari, aged 27 years.

All are residents of Village Narain Sirohi, Post Jhopda, Tehsil Chauth Ka Barwara, Police Station Sukhal, Sawaimadhopur (Rajasthan).

1/2 Mamta Devi wife of Shravan Rebari, aged 32 years, resident of Rebari Mohalla, Shaympura, Sawaimadhopur (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. Mahendra Kumar Gadoria, learned counsel for the applicants.  
Mr. Tikam Chand Sharma, learned counsel for the respondent.

## JUDGMENT

Per Ms. Jhanja Tripathy, Member (T.).

1. Initially this claim application was 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 seeking compensation of Rs.8,00,000/- along with interest on account of death of their unmarried son Shri Rajesh Kumar in an alleged untoward incident. During pendency of the claim application, applicant No.1 Shri Akhraj expired on 16.9.2019. Hence, his son and daughter being his only legal representatives, were allowed to be impleaded as claimants vide order dated 25.1.2023.
2. In a nutshell, it has been averred in the claim application that in the night of 16.1.2019 Shri Rajesh Kumar commenced his journey from Jaipur to Chauth Ka Barwara by a passenger train bound to Kota. During journey, when the said train was running between Sanganer and Chauth Ka Barwara railway stations near Diggi Pulia, Shri Rajesh Kumar due to a sudden jerk of the train and resultant loss of balance, accidentally fell down from the running train, suffered grave injuries and died on the spot. Further, the Police on receipt of the information about this incident by the Station Master, Sanganer, registered a Marg Report No.07/2019 dated 17.1.2019 under Section 174 Cr.P.C. and also completed other mandatory formalities including postmortem on the dead body. Following the postmortem, the dead body of Shri Rajesh Kumar was handed over to his family members for final rituals. It has been stated by the applicants that the relevant railway journey ticket on which Shri Rajesh Kumar was undertaking his aforesaid journey, was lost during the course of incident and that he was a bonafide passenger of the said train at the time of occurrence of the incident.



3. In support of their claim, the applicants have made available on record the copies of the extract of Rapat Roznamcha Aam, Report of the incident, Proceedings under Section 174 Cr.P.C., Fard Panchayatnama, Postmortem Report, Final Report, SDM's Report, Aadhaar Cards and Bank details.



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 does not serve any cause of action under the provisions of the Railways Act, 1989 and the Railway Claims Tribunal Act, 1987. It has been pleaded on behalf of the respondent Railway Administration that on 16.1.2019 the Loco Pilot of Train No.22981 informed the Station Master, Sanganer that something is lying between the railway tracks and later it was found to be a dead body. Further, the Police reached the site of incident and during search made on the dead body, no ticket or any other travelling authority was recovered. It has further been pleaded on behalf of the respondent Railway Administration that the alleged train for Kota starts from Jaipur in the midnight (00.00 hours) whereas the dead body was detected at 21.30 hours by the Loco Pilot of Train No. 22981. According to Shri Bhim Raj, his nephew boarded a train from Chauth Ka Barwara to Jaipur at 21.30 hours. The statements of Shri Bhim Raj are absolutely contradictory to the averments made in the claim application. It has also been pleaded on behalf of the respondent Railway Administration that 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 20.12.2019:-



- 1) *Whether the deceased was travelling on a valid railway journey ticket and was a bonafide passenger of the train in question at the relevant time?*
  - 2) *Whether the deceased met with an untoward incident due to a fall from the passenger carrying train, suffered injuries and died as a result thereof and the present case is covered under the definition of Section 123 (c) (2) read with Section 124A 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 Smt. Jeeva has filed her own examination-in-chief on affidavit. The documents filed along with the claim application, were got exhibited by her as A/1 to A/10. Besides, an affidavit of Shri Bhim Raj Rebari has also been filed on behalf of the applicants. They were cross-examined by learned counsel for the respondent Railway Administration on 20.2.2023 and 17.4.2023 respectively.
7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavit of Shri Gokul Chand, Investigation Officer. He was cross-examined by learned counsel for the applicants on 18.5.2023.

### FINDINGS

8. We 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. Our findings on the aforesaid issues are as follows:

#### Issue No.1 & 2 :

9. Both these issues are being taken up and decided together being interlinked with each other.

10. Applicant No.2 Smt. Jeeva has deposed by way of her affidavit that in the night of 16.1.2019 her son Shri Rajesh Kumar commenced his journey from Jaipur to Chauth Ka Barwara by a passenger train bound to Kota railway station after purchasing a valid second class railway journey ticket. During journey, when the said train was running between Sanganer and Chauth Ka Barwara railway station near Diggi Pulia, Shri Rajesh Kumar due to a sudden jerk of the train and resultant loss of balance, accidentally fell down from the running train, suffered grave injuries and died on the spot. Further, the Police on receipt of the information about this incident by the Station Master, Sanganer, registered a Marg Report bearing Nl.7/2019 under Section 174 Cr.P.C. and also completed other mandatory formalities including postmortem on the dead body and handed it over to the family members for last rites. It has further been deposed by her that the relevant railway journey ticket on which Shri Rajesh Kumar was undertaking his aforesaid journey, was lost during the course of incident and that he was a bonafide passenger of the said train at the material time. During cross-examination, she has stated that it is true that her son did not purchase the ticket in her presence. It is true that she was not travelling with her son. It is also true that she is not aware about the journey being undertaken by her son. It is true that no ticket was found with her son during search. It is also true that his son was staying in Sanganer. She is not aware if her son met with this incident during crossing of the railway track. The incident took place during night time. Applicants' witness Shri Bhim Raj Rebari has also deposed the same facts by way of his affidavit. During cross-examination, she has stated that it is true that he is not a witness to purchasing the ticket by the deceased. He did not see the deceased boarding the train. He was not travelling with the deceased. He is not aware about the train which runs between Sanganer and Kota. The statements given to the RPF, were signed by him after reading the same. The documents filed along with the



claim application were got exhibited by applicant No.1 Smt. Jeeva as A/1 to A/10.



11. *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 made on the person of the deceased and at the site of the incident, no ticket was recovered. It has further been argued by him that there is not witness to the incident. The dead body of Rajesh Kumar was spotted by the Loco Pilot of Train No.22981 at about 21.35 hours whereas the alleged train departs from Jaipur to Kota in the midnight (00.00 hours). Hence, the possibility of falling down from the said train does not arise. It has also been argued by him that this fact stands corroborated with the testimony of the witness of the respondent and the original DRM's Report. Hence, the claim application filed by the applicants deserves to be dismissed with costs.
12. We 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 Gokul Chand has deposed by way of his affidavit that enquiry in the present matter, was conducted by him. During enquiry, it was revealed that during search made on the person of the deceased and at the site of incident, no ticket was found. Hence, the deceased was not a bonafide passenger at the material time. He has further deposed that there is no eye-witness to the incident. Thus, it is established that the death of Shri Rajesh Kumar did not happen as a result of an untoward incident due to a fall from the alleged train. During cross-examination, he has stated that the incident took place on 16.1.2019 at 21.35 hours. He reached the site of incident at about 22.00 hours. On reaching the site of incident, he saw a person lying between the Down Lines. The Civil Police had also reached there by

that time. During search made by the Police on the person of the dead body and at the site of incident, no ticket or any other personal belongings were found.



14. The fact that the dead body of Shri Rajesh Kumar spotted at 21.35 hours by the Loco Pilot of Train No.22981 stands confirmed from the copy of the extracts of Station Diary (available at Page-59 of the DRM's Report). The fact that Train No.22981 passed through the site of incident at 21.32 hours, also stands confirmed from the list of Arrival/Departure of the trains on 16.1.2019 (available at Page-137 of the DRM's Report). Hence, it is established that the dead body of Shri Rakesh Kumar was found much prior to the departure of the train by which he was claimed to have been travelling.
15. It is pertinent to state here that Shri Bhim Raj Rebari has stated before the Police that deceased was travelling from Sanganer to Chauth Ka Barwara whereas he has deposed by way of his affidavit that Shri Rajesh Kumar was travelling from Jaipur to Chauth Ka Barawa. Besides, applicant No.1 Smt. Jeeva and Shri Bhim Raj Rebari during their cross-examination, have admitted the fact that neither were they witness to purchasing the ticket or boarding the train by the deceased nor were they aware by which train, the deceased was performing his alleged journey.
16. The Hon'ble Supreme Court while delivering judgment in the case of **Union of India v. Rina Devi 2018 SCC OnLine SC 507**, under Para-10, has observed that –

*"With regard to the strict liability, it is submitted that a distinction has to be drawn between an 'untoward incident' and a 'run over'. It is submitted that in view of Kumrunissa (supra) claimants should be put to strict proof of liability.....There are 68,000 kilometers of railway track which are porous/unmanned resulting in untoward incidents for which*

liability ought not to be fastened on the Railways without valid proof of its liability. Andhra Pradesh High Court in **Union of India versus Kurukundu Balakrishnaiah** rightly held that norms of evidence cannot be completely ignored.



In the instant case although the applicants have discharged the initial burden of proof by filing an affidavit in view of the law and principle laid down in **Union of India v. Rina Devi (supra)**, simultaneously it is also true that their testimonies cannot be taken into consideration being an affected and interested party particularly in view of the attending circumstances of the instant case.

18. On the contrary, the respondent Railway Administration 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)**, while discharging the burden of proof *prima facie* shifted upon them, has succeeded in establishing the fact that deceased Shri Rajesh Kumar was not a bonafide passenger within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 and his death did not happen as a result of an untoward incident as a result of a fall from the passenger carrying train as defined under Section 123 (c) (2) of the Railways Act, 1989.
19. In view of the judgment quoted above, our discussions in foregoing paras and after taking into consideration the attending circumstances of the case, it is held that deceased Shri Rajesh Kumar was not a bonafide passenger at the material time within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 and his death did not happen due to the alleged 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 against the applicants and in favour of the respondent.

Issue No. 3 -

20. In view of our findings on Issue No.1 and 2 above, this issue has become redundant and hence, needs no further deliberation.

Issue No.4 -

21. In view of our findings on Issue No.1 and 2 above, 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. 26.12.2023.

(Umesh Kumar Sharma)  
Member (Judicial)  
RCT/Jaipur

(Anuja Tripathy)  
Member (Technical)  
RCT/Jaipur

