



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

No. OA (Ilu)/JP/17/2020

CORAM: Mr. Umesh K. Sharma, Hon'ble Member (Judicial)

Date of Registration: 16-01-2020

Date of Decision: 15.03.2024

Pappu Ram Meena

Son of Manohar, aged about 47 years
Resident of: Boraj, Vair, Bharatpur,
Rajasthan.

...Applicant

Versus

Union of India

Through General Manager,
West Central, Jabalpur (M.P.).

...Respondent

Appearances: Mr. Yaseen Mohammad, Ld Counsel for the applicant.
Mr. Mohan Lal Rolaniya, Ld Counsel for the respondent.

JUDGMENT

By Sh. Umesh Kumar Sharma, Member (Judicial)

1. The claim application is filed by the parents of the deceased under Section 16 of the Railways Claims Tribunal Act, 1987 read with Section 125 of the Railways Act, 1986, claiming compensation of Rs.6,00,000/- along with interest at the rate of 18% p.a. from the date of incident on account of injuries suffered by him in an alleged untoward incident.
2. In brief, it has been averred in the claim application that on 13.02.2018 Pappu Ram Meena was travelling from Hazrat Nizamuddin to Bayana by Train No. 09810 holding a valid second-class railway journey ticket. The said ticket along with some important documents was kept in the bag. The





applicant further stated that due to rush in the coach; he was travelling standing in the gallery of the coach. At about 09.30 A.M., when the train left Bhartapur Railway Station, between Kms. 1210/21-23, the applicant due to rush of passengers accidentally fell down from the running train, and came underneath the wheels of the train and suffered crush injury to his right leg. After the incident, the applicant was shifted to RBM Hospital, Bhartapur by 108 Ambulance service by the Government Railway Police and Railway Protection Force. Where after first aid, he was shifted to Jaipur for further treatment. During treatment, his right leg was amputated from the knee. It has also been averred in the claim application that the aforesaid railway journey ticket was lost during of incident.

3. In support of his claim application, the applicant has filed the extract of Case Diary, Police proceeding of GRP Bhartapur, statement of the injured applicant, discharge ticket, certain Medical Bills and Prescription Memo, Identity Card, Aadhaar Card, Ration Card and Bank details.
4. On receipt of the notice, the respondent Railway Administration appeared before the Tribunal and filed written statement and original DRM's Report along with annexures. The respondent denied the averments made by the applicant in the claim application and pleaded that the applicant was standing near the door of the coach fell down from the running train is covered in clause (a) and clause (c) to the proviso to Section 124-A of the Railways Act, 1989 for which no compensation is payable to him. The respondent

further pleaded that the applicant was not a bonafide passenger at the relevant time as no ticket was recovered from his possession. The burden lies upon the applicant to prove his own case. On the basis of these pleas, dismissal of the claim application was sought by the respondent Railway Administration.

5. Based on the pleadings of the parties and documents on record the following issues were framed by this Tribunal on 21.06.2021:

- 1) *Whether the applicant was a bonafide passenger of the alleged train at the relevant time?*
- 2) *Whether the applicant suffered injuries 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 applicant is entitled to compensation as claimed for in the claim application?*
- 4) *Relief?*

6. In evidence, Pappu Ram Meena (AW-1), the applicant filed his affidavit in examination-in-chief. He was cross-examined by learned counsel for the respondent on 09.05.2023. The documents filed with the claim application were marked exhibit Ex. A/1 to A/8 as under:

S.No.	Particulars	Exhibit
1.	General Diary	A-1
2.	Editing G.R.P., Bhartapur	A-2



3.	Letter of DMO	A-3
4.	Check Statement	A-4
5.	Editing M.O.	A-5
6.	Discharge Ticket	A-6
7.	Medical Bill and Prescription Memo	A-7
8.	Aadhaar Card	A-8

7. In evidence respondent Railway Administration presented Hariom (RW-1), the Investigation Officer, who filed his affidavit in examination-in-chief. He was cross-examined by learned counsel for the application on 05.09.2023.

FINDINGS

8. I have carefully gone through the pleadings of the parties, material made available on record; evidence adduced by applicant 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 interlinked therefore taken up and decided together.

9. Learned Counsel for the applicant submitted that on 13.02.2018, Pappu Ram Meena was travelling from Hazrat Nizamuddin by Train No. 09S10 holding a valid second-class railway journey ticket. During journey, when the said train was running beyond Bharatpur Railway station, the applicant due to rush of passengers accidentally fell down



from the running train, and suffered crush injury to his right leg. He was shifted to RBM Hospital, Bhartapur by 108 Ambulance service by the Government Railway Police and Railway Protection Force from there after providing his first aid, he was shifted to Jaipur for further treatment. During treatment, his right leg was amputated from the knee. It has also been averred in the claim application that the aforesaid railway journey ticket was lost during the course of incident.

10. In the examination in chief, the applicant reiterated the facts stated in the claim application. With regard to the railway journey ticket, he stated that the bag in which the clothes, papers and railway journey ticket was lost during the incident. And, with regard to untoward incident he has stated that because of the heavy rush he was standing in the gallery of the coach and fell down from the running train because of the push of the passengers.
11. On the other hand, Ld Counsel for the respondent stated that the applicant was not a bonafide passenger at the time of the incident as no ticket was recovered from his possession and the incident does not come under the category of untoward incident as defined under section 123(c) (2) of Railway Act, 1989 as the applicant was standing near the door of the coach fell down from the running train and the incident comes under clause (a) and clause (c) to the proviso to Section 124-A of the Railways Act, 1989; hence no compensation is payable to the applicant and the claim petition is liable to be dismissed.



12. In the General Diary (Ex A-1) it is specifically mentioned that "इसी समय ऑन ह्यूटी स्टेशन मास्टर रेलवे स्टेशन भरतपुर ने रेलवे दूरभाष से सूचना दी कि किलोमीटर न.1210/21-23 पर एक व्यक्ति चलती ट्रेन निजामुद्दीन कोटा हॉलिडे एक्सप्रेस से गिर गया है। जिसका ट्रेन से पैर कटने पर घायल अवस्था में है। घटना स्थल पर मिली सूचना के बाद एचसी हरपाल सिंह नंबर 79 को अस्पताल जाकर जांच कर कार्यवाही करने के निर्देश देकर घटना स्थल पर भेजा गया।"

13. The Station memo (Ex. A-2) issued by S.S. (T) WCR Bhartapur mentions "श्री के.के. सिंह ने बताया कि 09810 से एक अज्ञात व्यक्ति किमी 1210/21-23 अप लाइन पर गिर गया है जिससे उसका एक पैर कट गया है।"

14. The conclusion of the DRM report mentioned that "श्रीमान जी जाँच में उपलब्ध दस्तावेजों व गवाहों के बयानों के आधार पर उक्त घायल यात्री पप्पू राम भीणा द्वारा घटना दिनांक को घटना के समय निजामुद्दीन से बयाना का टिकट कही गिरना बताया गया था अभी मुझे जाँच अधिकारी को दिए गए कथन व जीआरपी द्वारा दर्ज किये गए कथनों में टिकट बैग में रखा होना बताया जो गाड़ी में छूट गया था अतः सम्पूर्ण जांच में आहत व्यक्ति द्वारा गाड़ी के दरवाजे पर लापरवाही पूर्वक यात्रा करते समय घटना कारित हुई व आहत व्यक्ति के पास घटना दिनांक को रेल यात्रा करने का कोई रेल टिकट प्राप्त नहीं हुआ ना ही दौरान जांच जीआरपी द्वारा किसी प्रकार का आहत व्यक्ति को रेल यात्रा टिकट जप्त किया गया।"

15. It would be apposite here to reproduce Para 17.4 from the Judgement of Union of India Vs Rina Devi (2018 ACJ 1441) as under:

"17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be



maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."

16. Further, in para 16.6 Hon'ble Supreme Court held that:

"... the concept of 'self inflicted injury' would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence, which cannot be done in the case of liability based on 'no fault theory'. We may in this connection refer to the judgment of this Court in United India Insurance Co Ltd., versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on 'no fault theory' under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor."



17. On the touchstone of the observations made by the Hon'ble Apex Court in the Rina Devi's case, the injury suffered by the deceased filed falling from the train cannot be trained as self-inflicted injury and therefore in the facts and circumstances of the case it will not fall under the exception provided under clause (a) and (c) of the proviso to section 124-A of the Railways Act, 1989. And thus, it is to be held that the injuries suffered by the victim has taken place on account of an untoward incident and at the time of the journey he was a bonafide passenger in turns of Section 2(29) of the Railways Act. Hence, the issue No. 1 and 2 are decided in favor of the applicant and against the case the respondent.

Issue No. 3 & 4:

18. Case in hand has been filed before this Tribunal by the applicant on account of injuries suffered by him in an untoward incident. During cross-examination of Pappu Ram Meena, both the counsels agreed that the applicant suffered crush injury to his right leg resulting in amputation and the injuries fall under item No. 18 of part III of the Schedule annexed to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. To prove the injuries suffered by him, relevant medical documents have been as marked Ex. A/14 to A/19. The respondent Railway Administration has not adduced any evidence to controvert the same.



19. Applying the principles laid down in Rina Devi (*supra*) to the present case, it is held that applicant on account of aforesaid injury is entitled to get an amount of Rs.5,60,000 being a scheduled injury as prescribed under Item No. 18 of Part - III of the Scheduled appended to Rule 3(3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 (w.e.f. 01.01.2017) along with interest @ 9% per annum from the date of incident i.e. 13.02.2018 till the date of award. Both these issues are decided accordingly. Hence it is:

ORDERED

20. The claim application of the applicant is partly allowed. The respondent Railway administration is directed to pay Rs. 5,60,000/- to the applicant as compensation along with interest @9% per annum from the date of incident i.e. 13.02.2018 till the date of award.
21. The payment shall be made to the applicant in the manner described as under:

Name of the applicant	Amount to be paid to the applicant immediately by NEFT/RTGS	Amount to be invested in deposit scheme of Nationalized Bank and the amount to be dispersed monthly
Pappu Ram Meena	Rs.56,000 (Rs. Fifty Six Thousand Only)	Rs. 5,04,000/- (Rupees Five Lakh Four thousand only). This amount will be kept in the form of fixed



	along with the accumulated interest.	deposit for a period of three years. However, the monthly interest accrued on this amount shall be credit to his SB account.
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23. 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 applicant 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.
24. The applicant is 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.
25. The Bank shall not permit any joint name to be added in the saving bank account or fixed deposit account of the applicant i.e. their Saving Bank Accounts shall be an individual Saving Bank Account and not a Joint Account.
26. The maturity amounts of the FDRs be credited by Electronic Clearing System (ECS) in the said Saving Bank Accounts of the applicant.
27. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.



28. The concerned Bank shall not issue any cheque book and/or debit card to the applicant. However, in case the debit card and/or cheque book have already been issued, Bank shall cancel the same before the disbursement of award amount. The Bank shall freeze the accounts of the applicant so that no debit card be issued in respect of the accounts of the applicant from any other Branch of the Bank.
29. The Bank shall make an endorsement on the passbooks of the applicant 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 applicant 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 applicant to withdraw money from their Saving Bank Accounts by means of a withdrawal form only.
30. 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.
31. In the facts and circumstances of the case, there is, however, no order as to costs.
32. Registry is directed to send a free certified copy of this judgment directly to the applicant 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.

33. Copy of this order be supplied to both the parties free of costs, and to file, after its due compensation, be consigned to the Record Room.

Judgment pronounced, signed and sealed in open court today i.e. 15.03.2024.

(Umesh K. Sharma)
Member (Judicial)
RCT, Jaipur.