



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ

RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No. OA-II-19/2021



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

Date of registration: 08.03.2021

Date of judgment: 26.12.2023

Purushottam Sharma son of Shri Prabhudayal Sharma, aged 37 years, resident of Near Choth Mata Temple, Ward No.14, Padla Bhawan, Bandikui, District Dausa (Rajasthan).

.....Applicant

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. Ganesh Prajapati, learned counsel for the applicant.
Mr. Shailendra Kumar Saini, counsel for the respondent.

JUDGMENT

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

1. Case in hand has been preferred before this Tribunal by Shri Purushottam Sharma 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 injuries suffered by him in an alleged untoward incident.



In brief, it has been averred in the claim application that on 21.8.2018 Shri Purushottam Sharma commenced his journey from Bandikui to Jaipur by a passenger train named Ranikhet Express holding a valid second class railway journey ticket bearing No.ADATT518083. During journey, when the said train reached near Jagatpura railway station at about 11.30 hours, Shri Purushottam Sharma due to rush of passengers and a sudden jerk of the train, accidentally fell down from the running train. Due to fall from the running train, he suffered amputation of left leg and fracture of right leg besides multiple grievous injuries to other parts of the body. Further, the he was shifted to SMS Hospital, Jaipur where he remained under treatment for quite a long time. It has been stated by the applicant that he has become fully disabled due to the injuries sustained by him.

3. To substantiate his claim, the applicant has made available on record certified copies of the Enquiry Report of the GRP, Jaipur, Statements of the injured applicant, Shri Shrawan Singh Rajawat & Shri Madan Lal Sharma, true copies of the Discharge Tickets of SMS Hospital, Jaipur, Disability Certificate, Aadhaar Card, 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. It has been pleaded on behalf of the respondent Railway Administration that the applicant suffered injuries in the process of getting down from the passing through train at Jagatpura railway station. The said train was not having a



scheduled halt at Jagatpura railway station. There is a witness to the incident. The burden lies upon the applicant to prove his own case. On the basis of these and other pleas, dismissal of the claim application has been sought by the respondent Railway Administration.

Based on the pleadings of the parties and material made available on record, following issues were formulated by the Tribunal on 22.6.2021:

- 1- *Whether the applicant was a bonafide passenger 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 under Para-VII of the claim application?*
 - 4- *Relief?*
6. In the evidence, applicant Shri Purushottam Sharma 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 21.9.2022.
7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavits of Shri Sanjay Kumar Yadav, Guard and Shri Ganesh Narain, Constable. They were cross-examined by learned counsel for the applicant on 06.4.2023 and 21.6.2023 respectively.

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.2 –

9. Since this issue was argued at length on behalf of both the sides and appears to be an important one to decide the fate of this case, the same is being taken up with and decided first.
10. Applicant Shri Purushottam Sharma has deposed by way of his affidavit that on 21.8.2018 he was travelling from Bandikui to Jaipur by a passenger train named Ranikhet Express holding a valid second class railway journey ticket bearing No.ADATT518083. During journey, when the said train reached near Jagatpura railway station at about 11.30 hours, he due to a sudden jerk of the train and rush of passengers, accidentally fell down from the running train. Due to fall from the running train, he suffered amputation of left leg and fracture of right leg besides multiple injuries to other parts of the body. Further, he was shifted to SMS Hospital, Jaipur where he was operated upon. Later, he was again admitted in SMS Hospital, Jaipur on 18.9.2018 and remained hospitalized there for four days. It has also been deposed by him that he was travelling by the aforesaid train as a bonafide passenger and said incident did not take place due to his negligence. During cross-examination, he has stated that it is true that the said train does not have a scheduled halt at Jagatpura railway station. He fell down from the train due to a sudden jerk by the train. The documents filed along with the claim application, were got exhibited by him as A/1 to A/9.





11. *Per contra*, learned counsel for the respondent has vehemently argued that the applicant became a victim of this incident in the process of getting down from the passing through train at Jagatpura railway station. It has further been argued by him that this fact stands corroborated with the testimonies of both the witnesses of the respondent Railway Administration and the original DRM's Report. Hence, the said incident is fully 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 applicant. In the end, it has been prayed by him that the claim application filed by the applicant deserves to be dismissed with costs on this ground alone.
12. We have carefully heard the submission made by both the parties and also perused the material made available on record by them.
13. First witness of the respondent Railway Administration Shri Sanjay Yadav, Guard of Train No.15014 has deposed by way of his affidavit that on 21.8.2018 he was working as Guard of the aforesaid train. During his working, a person while attempted to get down from the passing through train, came underneath the train and suffered injuries. He has further deposed that after stopping the train on account of alarm chain pulling, he was informed by the train passengers about this incident. Further, he, in turn, informed the on duty Station Superintendent, Gatore Jagatpura about this incident. The Station Superintendent, Gatore Jagatpura shifted the injured to Hospital by 108 Ambulance Service. An entry with regard to this incident was made by him in the Guard's Rough Journal. It has also been deposed by him that his train was not having a scheduled halt at Jagatpura railway station and the said person got down from the running train. During cross-examination, he has stated that he is not a witness to the incident and the information regarding occurrence of the incident, was given to him by the train passengers.



14. Second witness of the respondent Shri Ganesh Narain, Constable, Railway Protection Force, Jagatpura has deposed by way of his affidavit that on 21.8.2018, he was posted at Jagatpura railway station. During his duty hours, when the train No.15014 was arrived at Jagatpura railway station at about 11.48 hours, a person in the process of getting down from the moving train, ran over by the said train between Kms.230/0-1. After stopping the train by the Guard, he along with Shri Dheer Singh, Assistant Sub Inspector reached the site of the incident and arranged to shift the said person to SMS Hospital, Jaipur by 108 Ambulance Service. It has also been deposed by him that a Joint Inspection Note was also prepared by him with regard to occurrence of this incident. The name of the injured was Purushottam Sharma. During cross-examination, he has stated that he is an eye-witness to the incident.
15. Now the question to be decided, is as to whether the falling down of Shri Purushottam Sharma in the process of getting down from the passing through train was a criminal act? The respondent Railway Administration by way of deposition of Shri Ganesh Narain, Constable, RPF, Jagatpura who is an eye-witness to the incident, has succeeded in establishing the fact that the applicant met with this incident in the process of getting down from a passing through train at a station where the said train was not having a scheduled halt. Since Ganesh Narain, Constable, RPF has no personal interest vested in the present matter, his testimony, in our considered view, cannot be doubted. On the other hand, the testimony of applicant cannot be taken into consideration being an affected and interested party.
16. Reliance placed by the learned counsel for the applicant upon the judgment in the case of *Union of India v. Rina Devi, 2018 SCC*



OnLine SC 507, is misconceived for the reason that even though the law under Section 123 (c) read with Section 124A of the Railways Act, 1989, is of a strict liability and, therefore, accidental falling of a passenger from a train even if due to negligence, imposes a liability on the Railways. But that cannot mean that principle of strict liability will apply to cases of death accruing on account of proven criminal negligence or self-inflicted injuries. Similarly, in the facts of the case before the Hon'ble Supreme Court in the case of Union of India v. Prabhakaran Vijaya Kumar & Ors. (2208) 9 SCC 527, the deceased died while trying to board a train which had stopped at Varkala railway station and which was so deposed to by PW-2 in that case and where testimony of PW-2 was believed by the Hon'ble Supreme Court by stating that there is no reason why PW-2 would have wanted to give false evidence or that he was an interested witness. The Hon'ble Supreme Court in this case, was not dealing with a case which involved a person trying to get down from a passing through train at a station where it does not have a scheduled halt.

17. The Hon'ble Supreme Court, in both the cases, has clearly not supported either implicitly or directly, that strict liability shall be operative in cases where there is a clear evidence of persons trying to either board or alight from a passing through train at a station having no scheduled halt.
18. We feel it pertinent to mention that the Hon'ble Karnataka High Court while delivering judgment in the case of Union of India versus Lakshmi & ors. [II (2014) ACC 11 (Kar.)] has observed in Para 8 and 9 as follows :-

"8- Now coming to the finding on issue No.3 regarding untoward incident, as stated in Section 123 (c) (2) of Railways Act, is



concerned, the word untoward incident as per the dictionary meaning is an act which is accidental by its nature, it is not definite and it is not expected in normal circumstances. Now with this definition if accident which has resulted in the death of R. Selvaraj is analysed, admittedly, he tried to board the train which was already moving and had gained momentum. In normal circumstances, any person would not risk his life in trying to get into moving train, which is leaving platform and has gained momentum. If anybody attempt to board moving train, it is nothing short of a suicidal act. Suicidal act cannot be construed as untoward incident under any circumstances. In a given situation when all parameters are normal i.e., train is stationed or is about to start, at that time if a person trying to get into train and for some reason beyond his control he either falls down or an accident would take place resulting in bodily injury or death to him, should be construed as untoward incident and not a daredevil attempt to jump into moving train, which would result in his falling down and coming under the wheels of train ultimately resulting in his bodily injury or death. The later part, by any stretch of imagination cannot be termed as untoward incident.

9- At this juncture, it is necessary to revert to the judgement referred to by counsel for respondents which is in Appeal (Civil) No.6898 of 2002 in the matter of Union of India v. Prabhakaran Vijaya Kumar and Others, I (2009) ACC 270 (SC), disposed by the Apex Court on 5.5.2008, wherein Their Lordships have under similar circumstances while trying to explain the word untoward incident have said that falling of from the train in the process of getting into the same would amount to untoward incident. On going through the entire judgement nowhere there is reference to falling down from a moving train. Therefore, the ratio laid down in the aforesaid judgement will have no bearing to the facts and



circumstances of the case on hand. In that view of matter, this Court find that there is no justifiable reason to rely upon said judgement to construe that fall from moving train is an untoward incident. In fact, at best it could be called as a daredevil attempt or suicidal attempt on his part in getting into such train. The said act by any stretch of imagination could not be brought under the definition of untoward incident as contemplated under Section 123 (c) (2) of the Railways Act."

19. The purpose of Section 124A of the Railways Act, 1989 is to provide speedy remedy to an injured passenger or to the dependants of deceased passenger involved in an untoward incident. Section 124A of the Railways Act, 1989 provides compensation to a passenger or his dependants who suffers injury or death, as the case may be, in an untoward incident even where the untoward incident is not the consequence of any wrongful act, neglect or default on the part of the Railway Administration. To this extent, it can be said to be a strict liability. Even though the provisions relating to payment of compensation in the Railways Act, 1989, can be said to be a piece of beneficial legislation, it cannot be stretched to reward a person who acts callously, unwisely or impudently. There is no provision of law brought to our notice permitting the passengers to get down from a passing through train at a station having no scheduled halt.
20. In the case in hand, the applicant attempted to get down from a passing through train at Jagatpura railway station. Therefore, in our considered opinion, the applicant suffered injuries as a result of his own carelessness, heedlessness and recklessness which is squarely covered under exceptions (b) i.e. 'self-inflicted injury' and (c) i.e. 'his own criminal act' provided with Section 124A of the Railways Act, 1989, and, therefore, the said incident does not attract the

provisions of Section 123 (c) (2) of the Railways Act, 1989 for the purpose of granting compensation to him.



21. The case law titled Bimla Devi & Anr. Vs. Union of India – FAO No.421/2012 dated 08.1.2014 – Hon'ble High Court of Delhi at New Delhi filed by learned counsel for the respondent also is germane to the instant case as it is nearly identical.

22. In view of the above, it is held that the respondent Railway Administration, by way of sufficient evidence both oral and documentary which remained unrebutted and unchallenged throughout, has discharged the burden of proof *prima facie* shifted upon them and has succeeded in establishing the fact that the applicant Shri Purushottam Sharma did not suffer injuries as a result of an untoward incident within the meaning of Section 123 (c) (2) read with Section 124A of the Railways Act, 1989. Accordingly, this issue is decided against the applicant and in favour of the respondent Railway Administration.

Issue No.1 & 3 –

23. In view of our findings on Issue No.2 above, both these issues have become redundant hence, need no further deliberation.

Issue No.4 -

24. In view of our findings on Issue No.2 above, the applicant is not entitled to any relief whatsoever from the respondent Railway Administration.

ORDER

25. The claim application of the applicant fails and is hereby dismissed. No order as to costs.

26. Judgement pronounced, signed and sealed in open Court today i.e.
26.12.2023.



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

(Jhanka Tripathy)
Member (Technical)
RCT/Jaipur