



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No.OA-II-33/2020

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

Date of Registration: 07.02.2020
Date of Judgment: 26.02.2024

1. Smt.Tara Bai wife Late Shri Vinod Nath, aged about 38 years.
2. Bharat minor son of Late Shri Vinod Nath, aged about 17 years.
3. Ratni minor daughter Late Shri Vinod Nath, aged about 16 years.

Applicants No.2 and 3 being minor hence, through their natural guardian and mother Smt. Tara Bai.

All are residents of Ward No.1, Tanki Chauraha, Village Suket, Tehsil Ramganj Mandi, District Kota (Rajasthan).

Versus

.....Applicants

Union of India through the General Manager, West Central Railway, Jabalpur (MP).

....Respondent

Claim for Rs.12,00,000/- along with interest

PRESENT

Mr. Manmohan Gupta, learned counsel for the applicants.
Mr. Tikam Chand Sharma, learned counsel for the respondent.

JUDGMENT

1. This claim application has been preferred before this Tribunal by the widow mother, minor brother and unmarried minor sister 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.12,00,000/- along with interest on account of death of Shri Kohinoor in an alleged untoward incident.



It is the case of the applicants that on 15.5.2019 Shri Kohinoor commenced his journey from Ramganj Mandi to Bhawani Mandi by Train No.19024 holding a valid second class railway journey ticket. Since there was rush of passengers in the train, Shri Kohinoor was forced to stand in the gallery near the door of the coach. During journey, when the said train was about to reach Bhawani Mandi railway station, Shri Kohinoor due to a sudden jerk of the train and resultant push of the fellow coach passengers, accidentally fell down from the running train near the yard of Bhawani Mandi railway station between Kms.820/29-27, suffered multiple grievous injuries and died on the spot. Further, the Station Superintendent, Bhawani Mandi on receipt of the information about lying of a dead body near the railway track by the Driver of Train No.22922 on walkie-talkie, in turn, informed the Government Railway Police, Shamgarh and Civil Police Bhainsoda Mandi through a Memo. The Government Railway Police on receipt of the aforesaid Memo, registered a Marg report bearing No.9/2019 dated 15.5.2019 under Section 174 Cr.P.C. and also completed other requisite formalities including postmortem on the dead body. Thereafter, the dead body of Shri Kohinoor was handed over to his family members for final rituals. It has also been averred in the claim application that the relevant railway journey ticket on which Shri Kohinoor was undertaking his aforesaid journey, was lost during the course of incident. Besides, a bag which he was carrying with him at the material time, also remained untraceable.

3. To substantiate their claim, the applicants have made available on record the certified copies of the Memo issued by the Station Superintendent, Bhawani Mandi, Marg Report, Naksha

Panchayatnama, Panchayatnama, Fard Naksha Mauka, Shinakhti Panchayatnama, Postmortem Report, Fard Supurdagi Laash, statements of Shri Vishal Morya, true copies of the Family Ration Card, Aadhaar Card 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 RCT Act, 1987 and, therefore, the claim application filed by the applicants, is liable to be dismissed. It has been pleaded on behalf of the respondent Railway Administration that during enquiry, it was found that dead body was seen by the Loco Pilot of Train No.22922 at about 4.00 hours on 15.5.2019 and subsequently he informed the Station Superintendent, Bhawani Mandi on VHF set. Subsequent to passing of the alleged train, four trains were passed through the site of incident but none of the Driver or Guard informed about lying of the dead body near the railway track. It has also been pleaded on behalf of the respondent Railway Administration that on 15.5.2019 only three tickets were issued from Ramganj Mandi to Bhawani Mandi and none of them was issued in favour of one adult. Hence, the deceased was not a bonafide passenger of the alleged train at the material time. Besides, during search made on the person of the deceased, no ticket or any travelling authority was recovered. There is no eye-witness to the incident. As per the Driver and Guard of the alleged train, 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 prayed on behalf of 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 23.6.2021:



- 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 Smt. Tara Bai 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/14. She was cross-examined by learned counsel for the respondent Railway Administration on 28.8.2023.
7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavit of Shri Santosh Kumar Dhakar, Investigation Officer. He was cross-examined by learned counsel for the applicants on 21.9.2023.

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.1 Smt. Tara Bai has deposed by way of her affidavit that on 15.5.2019 her unmarried son Shri Kohinoor was travelling from Ramganj Mandi to Bhawani Mandi by Train No.19024 holding a valid second class railway journey ticket. She has further deposed



vide Para-5 of her affidavit that the said ticket was lost during the course of incident and that her deceased son was a bonafide passenger at the material time. During cross-examination, she has stated that it is true that her son was travelling alone on the date of incident. She did not see him either purchasing the ticket or falling down from the train. No ticket was found with the deceased.

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 15.5.2019 only three tickets were issued from Ramganj Mandi to Bhawani Mandi and none of them was issued for a single person. Hence, it is established that deceased did not purchase any ticket on that day and, therefore, he was not a bonafide passenger at the material time. Thus, the claim application filed by the applicants is liable to be dismissed summarily on this ground alone with 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 Santosh Kumar Dhakar has deposed by way of his affidavit that enquiry in the present matter, was conducted by him. During enquiry, it was revealed that as per the Chief Booking Supervisor, Ramganj Mandi only three tickets were issued for Bhawani Mandi for more than one person on that day whereas as per the applicants the deceased was travelling alone. Hence, it is proved that deceased was not travelling by the alleged train on that day as a bonafide passenger. During cross-examination nothing contradictory has come out.
13. The certified copy of Detailed Transaction Checklist (DTC) has been filed on behalf of the respondent Railway Administration (available



from Page-13 to 16 of the DRM's Report) and minute perusal of the same indicates that on 15.5.2019 no ticket ex. Ramganj Mandi to Bhawani Mandi was issued in favour one adult. 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 (29) 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 15.5.2019 no ticket was issued from Ramganj Mandi to Bhawani Mandi in favour of one adult.
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.1 Smt. Tara Bai 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 her 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 Ramganj Mandi to Bhawani Mandi for one adult on that day i.e. 15.5.2019.



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 Kohinoor 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 law titled *Smt. Kiran Dei & others v. Union of India* (SB Civil Misc. Appeal No.447/2003 dated 19.2.2007), filed by learned counsel for the applicants, has 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 Kohinoor 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 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. **26.02.2024.**



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