



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No. OA-II-38/2020

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

Date of Registration: 07.02.2020

Date of Judgment: 02.04.2024

1. Smt. Sursata wife of Late Shri Ghirao, aged about 49 years.
2. Pawan Kumar Dushad son of Late Shri Ghirao, aged about 23 years.
3. Sharvan Kumar minor son of Late Shri Ghirao, aged about 17 years.
4. Funnan minor daughter of Late Shri Ghirao, aged about 15 years.
5. Banwari minor son of Shri Ghirao, aged about 07 years.

Applicants No.3 to 5 being minor hence, through their natural guardian and mother Smt. Sursata wife of Late Shri Ghirao.

All are residents of Village Mohanpur, Tehsil & Police Station Tulsipur, District Balrampur (Uttar Pradesh).

.....Applicants

Versus

Union of India through the General Manager, Western Railway,
Churchgate, Mumbai.

....Respondent

1. Smt. Parvati wife of Late Shri Ferai alias Fere, aged about 70 years, resident of Mohanpur, Tehsil & Police Station Tulsipur, District Balrampur (Uttar Pradesh).

.....Proforma respondent

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

PRESENT

Mr. Manmohan Gupta, learned counsel for the applicants.
Mr. Vivek Choudhary, learned counsel for the respondent.

JUDGMENT

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

1. Claim application being disposed of by this order has been preferred before this Tribunal by the wife, children and widow mother 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 Ghirao in an alleged untoward incident.
2. It is the case of the applicants that on 06.6.2019 Shri Ghirao commenced his journey from Ramganj Mandi to Vapi by a passenger train holding a valid second class railway journey ticket bearing No.ULB-17827796. Since there was rush of passengers in the train, he could hardly get a space to stand in the gallery near the door of the coach. During journey, when the said train was running in the yard of Meghnagar railway station, Shri Ghirao due to push of the fellow coach passengers, accidentally fell down from the running train, suffered grave injuries and died on the spot. Further, the Government Railway Police on receipt of the information about this incident through a Memo issued by the Station Superintendent, Meghnagar on 07.6.2019, reached the site of incident and registered a Marg Report bearing No.12/2019 dated 7.6.2019 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 final rituals. It has been stated by the applicants that the relevant railway journey ticket on which Shri Ghirao was



performing his aforesaid journey, was seized by the Police after recovery from the dead body.

3. To strengthen their claim, the applicants have made available on record certified copies of the Memo issued by the Station Superintendent, extract of the Case Diary, Marg Report, Fard Naksha Mauka, railway journey ticket, Fard Shinakhti Laash, Postmortem Report, Fard Supurdagi Laash, Final Report, true copies of the Death Certificate, Aadhaar 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. Subsequently an amended DRM's Report was also filed on behalf of the respondent Railway Administration. It has been pleaded on behalf of the respondent that the deceased was not a bonafide passenger of the alleged train and no such untoward incident as alleged, took place on that day. Hence, the claim application filed by the applicants is liable to be dismissed. It has further been pleaded on behalf of the respondent Railway Administration that the Driver of a Goods Train informed about lying of a dead body on Line No.4. The engine and two wagons of the said Goods Train had run over the dead body by the time he could stop the train. The dead body with severed head, was lying on Line No.4 adjacent to Platform. During search made on the person of the dead body, the aforesaid ticket along with other articles, were recovered. Another ticket ex. Gonda to Vapi along with Excess Fare Ticket dated 5.6.2019 was also recovered from the dead body. Hence, it is not clear as to why the deceased got down at Ramganj Mandi and by which train was going to Vapi. 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. Sursata 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/22. She was cross-examined by learned counsel for the respondent Railway Administration on 29.9.2022.

7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavits of Shri Anil Kumar, Enquiry Officer and Shri Om Prakash Riyar, the then Station Master, Meghnagar. They were cross-examined by learned counsel for the applicants on 6.12.2022 and 25.10.2023 respectively.

FINDINGS

8. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them, case laws filed by learned counsel for the applicants 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 inter-linked with each other.



10. Applicant No.1 Smt. Sursata has deposed by way of her affidavit that on 06.6.2019 her husband Shri Ghirao was travelling from Ramganj Mandi to Vapi by a passenger train holding a valid second class railway journey ticket bearing No.ULB-17827796. Since there was rush of passengers in the train, he was compelled to stand in the gallery near the door of the coach. During journey, when the said train was running in the yard of Meghnagar railway station, Shri Ghirao due to push of the fellow coach passengers and resultant loss of balance, accidentally fell down from the running train, suffered grave injuries and died on the spot. Further, the Government Railway Police on receipt of the information about this incident through a Memo issued by the Station Superintendent, Meghnagar on 07.6.2019, reached the site of incident and registered a Marg Report bearing No.12/2019 dated 7.6.2019 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 final rituals. It has further been deposed by her that the relevant railway journey ticket on which Shri Ghirao was performing his aforesaid journey, was seized by the Police after recovery from the dead body. During cross-examination nothing contradictory has come out. The documents filed along with the claim application, were got exhibited by her as A/1 to A/22.
11. *Per contra*, learned counsel for the respondent has argued that deceased at the material time, was not a bonafide passenger at the relevant time within the meaning of Section 2 (29) of the Railways Act, 1989 as the ticket recovered from the dead body, was invalid. It has further been argued by him that the dead body of Shri Ghirao was found on Line No.4 whereas Train No.12956 passed through Line No.3. Hence, the deceased did not die as a result of alleged



untoward incident. He has further argued that this fact stands corroborated with the testimonies of both the witnesses of the respondent Railway Administration and the amended DRM's Report. Hence, the claim application filed by the applicants is liable to be dismissed with costs.

12. We have carefully heard the arguments, perused the documents made available on record on behalf of both the sides and evidence adduced by them.
13. First witness of the respondent Railway Administration Shri Anil Kumar has deposed by way of his affidavit that enquiry in the present matter, was conducted by him. During enquiry, it was revealed that on 07.6.2019 the Loco Pilot of Goods Train No.KRCL informed the Station Master at 03.53 hours that a person is lying on Line No.4. He after seeing the same, applied the emergency brakes but before he could stop the train, the engine and two wagons had run over the dead body. The Station Master issued a Memo to the GRP and RPF and also telephonically informed the TLC/RTM. Subsequently, the Government Railway Police personnel reached the site of incident and found that the dead body with severed head, was lying adjacent to the Line No.4. Hence, it is not possible that the deceased fell down from the train. In fact, either he committed suicide or was he got hit by some train during trespass under intoxication. It has further been deposed by him that only Train No.12956 is available from Ramganj Mandi to Vapi which passed through Meghnagar through Line No.3 at 22.13 hours whereas the dead body was found in the morning of 7.6.2019 at 3.53 hours on Line No.4. Hence, it is proved that deceased met with this incident due to a hit by some train for which the respondent Railway Administration cannot be held liable. During cross-examination, he has stated that enquiry in the present matter was entrusted to him in the month of February, 2020. He did not go to the site of incident. It is true that Line No.4 of platform No.3 is a loop line. It is



true that ticket was recovered from the dead body and on verification, the same was found to be valid. He did not record statements of any person who saw the deceased getting hit by the train. He did not record statements of any Guard or Driver who saw the deceased coming in front of the engine.

14. Second witness of the respondent Railway Administration Shri Omprakash Riyar, Station Master, Meghnagar has deposed by way of his affidavit that on 6.6.2019 he was posted as Station Master at Meghnagar in the shift of 22.00 hours to 06.00 hours of 7.6.2019. During his working, he was informed by the Driver of a Goods Train No.KRCA that a dead body is lying Line on No.4 and the engine and two wagons of his train have run over the dead body. He has further deposed that Train No.12956 of 6.6.2019 arrived at line No.3 of Platform No.2 at 23.13 hours. The dead body was lying on Line No.4 of Platform No.3. Hence, it is not possible that death of Shri Ghirao happened due to alleged incident. The Train No.12956 arrived at Meghnagar railway station at 23.13 hours on 6.6.2019 whereas the dead body was spotted at 03.53 hours on 7.6.2019. Since the site of incident is near the station premises, it is not possible that the dead body kept lying there undetected for about three hours. Hence, the alleged incident did not take place by Train No.12956 and, therefore, the alleged incident is not covered under the definition of untoward incident. During cross-examination, it was stated by him that Train No.12956 passed through Line No.3 on that day and dead body was found on Line No.4.

15. From the testimonies of both the witnesses of the respondent Railway Administration, it is amply clear that a ticket from Ramganj Mandi to Vapi was recovered from the person of the dead body and on verification, the same was found to be valid. Besides, the applicants have not pleaded and deposed that the deceased was travelling by Train No.12956 on that day. Assuming for a moment, the deceased fell down from Train No.12956 passed through Line



No.3 on that day, the possibility of finding dead body on Line No.4, in our considered view, cannot be ruled as it must have dragged on the ballasts after falling down from the running train. Besides, it has also been admitted on behalf of the respondent Railway Administration that the dead body was again run over by the Goods Train. Hence, the testimonies of both the witnesses of the respondent Railway Administration, in our considered, view do not have sufficient force to establish that deceased at the material time, was not a bonafide passenger and his death did not happen as a result of an untoward incident due to an accidental fall from the passenger carrying train; or the alleged incident is covered under any of the exceptions provided with Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicants.

16. Recovery of a valid ticket from the person of the deceased, is the concrete evidence that he was on the train going towards Vapi.
17. Hence, 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*, 2018 SCC OnLine SC 507 has failed to discharge the burden of proof *prima facie* shifted upon them to prove that the deceased at the material time, was not a bonafide passenger of the train in question 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 due to an accidental fall from the passenger carrying train as defined under Section 123 (c) (2) of the Railways Act, 1989; or the present case is covered under clause (c) to the proviso to Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicants.
18. In view of the judgment quoted above, our discussions in foregoing paras and looking at the facts and circumstances of the case, it is



held that the deceased at the material time, was a bonafide passenger of the train in question within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 and his death happened as a result of an untoward incident due to 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 in favour of the applicants and against the respondent.

Issue No.3 & 4:

19. Both these issues are being dealt with and decided together.
20. Case in hand has been filed before this Tribunal by the wife, children and widow mother of the deceased being the only dependants. During cross-examination nothing contradictory has come out. To prove their dependence, true copies of Aadhaar Cards have been filed by the applicants as Ex.A/12 and A/19. On the contrary, no evidence whatsoever has been adduced on behalf of respondent to rebut the case of the applicants on the point of dependence of the present applicants. Moreover, during pendency of the claim application, none else appeared before the Tribunal claiming himself/herself as one of the dependants or/and the sole dependant of the deceased.
21. Applying the principles laid down in *Rina Devi (supra)* in the present case, it is held that the present applicants being the only dependants of the deceased within the meaning of Section 123 (b) (i) & (ii) of the Railways Act, 1989, are entitled to get an amount of Rs.8,00,000/- as compensation as prescribed under Part-I of the Schedule 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. 06.6.2019 till the date of award. Both



these issues are decided accordingly in favour of the applicants and against the respondent.

ORDER

22. The claim application of the applicants is allowed. The respondent Railway administration is directed to pay Rs.8,00,000/- to them as compensation along with interest @ 9% per annum from the date of incident i.e. 06.6.2019 till the date of award.
23. The payment shall be made to the applicants in the manner described as under:

Name of the applicants	Amount to be paid to the applicants immediately by NEFT/RTGS	Amount to be invested in fixed deposit scheme of Nationalized Bank and the amount to be dispersed monthly
Smt. Sursata (wife of the deceased)	Rs.50,000/- (Rs. fifty thousand only) along with proportionate interest.	Rs.4,50,000/- (Rupees four lakh fifty thousand only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount shall be credited to her SB Account.
Pawan Kumar Dushad (son of the deceased) -	Rs.5,000/- (Rs. five thousand only) along with proportionate interest.	Rs.45,000/- (Rupees forty five thousand only). This amount will be kept in the form of fixed deposit for a period of one year. However, the monthly interest accrued on this amount, shall be credited to his SB Account.
Sharvan Kumar (minor son of the deceased who has become a major during pendency of the claim application)	Rs.5,000/- (Rs. five thousand only) along with proportionate interest.	Rs.45,000/- (Rupees forty five thousand only). This amount will be kept in the form of fixed deposit for a period of one year. However, the monthly interest accrued on this



		amount, shall be credited to his SB Account.
Funnan (minor daughter of the deceased who has become a major during pendency of the claim application)	Rs.5,000/- (Rs. five thousand only) along with proportionate interest.	Rs.45,000/- (Rupees forty five thousand only). This amount will be kept in the form of fixed deposit for a period of one year. However, the monthly interest accrued on this amount, shall be credited to her SB Account.
Banwari (minor son of the deceased)		Rs.50,000/- (Rupees fifty thousand only). This amount will be kept in the form of fixed deposit under the guardianship of his mother till such time he becomes a major.
Smt. Parvati (widow mother of the deceased)	Rs.10,000/- (Rs. ten thousand only) along with proportionate interest.	Rs.90,000/- (Rupees ninety thousand only). This amount will be kept in the form of fixed deposit for a period of one year. However, the monthly interest accrued on this amount, shall be credited to her SB Account.

24. 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 applicants 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.
25. The applicants are hereby directed to submit the details of their Andhaar linked Bank accounts of a Nationalized Bank situated nearest to their place of residence to the Additional Registrar of this Tribunal.
26. The Bank shall not permit any joint name(s) to be added in the saving bank account or fixed deposit account of the applicants i.e.



their Saving Bank Accounts shall be an individual Saving Bank Account and not a Joint Account.

27. The maturity amounts of the FDRs be credited by Electronic Clearing System (ECS) in the said Saving Bank Accounts of the applicants.
28. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.
29. The concerned Bank shall not issue any cheque book and/or debit card to the applicants. 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 applicants so that no debit card be issued in respect of the accounts of the applicants from any other Branch of the Bank.
30. The Bank shall make an endorsement on the passbooks of the applicants 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 applicants 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 applicants to withdraw money from their Saving Bank Accounts by means of a withdrawal form only.
31. 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.
32. In the facts and circumstances of the case, there is, however, no order as to costs.



33. Registry is directed to send a free certified copy of this judgment directly to the applicants 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.

34. Judgment pronounced, signed and sealed in open Court today i.e. 02.04.2024.

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

(Jyoti Tripathy)
Member (Technical)
RCT/Jaipur