

Before Railway Claims Tribunal, Jaipur Bench

Coram: Shri Virendra Kumar Goyal, Hon'ble Member (Judicial)/RCT-Ahmedabad
 @ Circuit Bench at RCT-Jaipur
 Shri G.S. Hira, Hon'ble Member (Technical)/RCT-Jaipur

CASE No. OA(Hu)/JP/07/2023

Date of Filing : 23.11.2022

Date of Decision : 16.10.2025

Smt Lali Devi W/o Late Kailash Chand, Aged 44 years.
 (Mother of the deceased)

Resident of: Maliyo ki Dhani, Ward No.09, Gandhinagar,
 Kishangarh, Ajmer, Raj.-305801.

...Applicant

-Versus-

Union of India Through General Manager,
 North Western Railway, Jaipur.

..... Respondent

Appearance:

Mr. Mangilal Chaudhary, Ld. counsel for Applicant.

Mr. Mohanlal Rolaniya, Ld. counsel for the Respondent.

Claim For ₹ 8,00,000/-+ interest**Judgment**

This OA has been filed by the mother of the deceased under Section 16 of the Railway Claims Tribunal Act, 1987, for compensation from the Respondent Railway on account of the alleged death of her unmarried son Kamlesh S/o Late Kailash Chand, aged 19 years (hereinafter referred to as 'deceased'), in an alleged untoward incident during the alleged train journey, on the ground that she is the sole dependant of the deceased.

2. As per the OA, the deceased, a tailor working in Kishangarh, planned a religious trip to Jaipur, Ramdevra, and other holy places. He travelled from Kishangarh to Jaipur on 07.08.2022 and, after spending a day there, boarded train no. 12468 Leelan Express on 08.08.2022, with a valid ticket for Ramdevra in a second-class general coach. During the night journey, the deceased fell asleep and, upon waking near kilometer marker 181/6-7, he approached the coach door to check the upcoming station, meanwhile, lost

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balance and accidentally fell from the train, resulting in his death on the spot. The RPF informed the GRP, who recovered a torn backpack containing a mobile phone, charger, power bank, earphones, and clothes. As the deceased was initially unidentified, his photo was published in newspapers. His family identified him on 10.08.2022, and after postmortem, his body was handed over to his elder brother Mahendra for final rites. It is also averred that the ticket was lost during the incident. Hence, the Applicant sought compensation from the Respondent Railway.



3. In the Written Statement, the Respondent Railway contested; that the body was lying in decapitation stated, the head was lying outside the track and the torso inside the track; that such injuries cannot be sustained from falling from a train; that as per Panchnama the deceased died due to dash with train. Hence, the Respondent denied bonafide passenger status of the deceased and occurrence of untoward incident, therefore sought dismissal of the claim.

4. **Crux of DRM report:** "... मृतक व्यक्ति कमलेश पुत्र श्री कैलाश रैगर दिनांक 09.08.2022 को रेलवे स्टेशन रामदेवरा-आशापुरा गोमट के मध्य कि मी. 181/6-7 पर मृत अवस्था में पाया गया है, जिसकी मृत्यु का कारण अज्ञात है।...."

5. Based upon the pleadings of the parties and material made available on record, the following issues were framed.

ISSUES:

1. Whether the deceased was a bonafide passenger of the train No. 12486 in question at the time of incident?
2. Whether the deceased died in an untoward incident as defined in Section 123(c)(2) of the Railways Act?
3. Whether the applicant dependants are the dependents of the deceased and are entitled to compensation as claimed in the claim application?
4. Relief?

6. **Applicant's Evidence:** The Applicant, mother of the deceased, has filed her own examination-in-chief on affidavit as AW/1 on the lines of facts stated in the OA and she was cross examined by the counsel for the Respondent as under:

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"... मेरे पुत्र ने दिनांक 08.08.2022 को फोन से बताया था कि वह जयपुर से रामदेवरा जा रहा है। मुझे उसका फोन नं. याद नहीं उसका फोन टूट गया था। मुझे मेरा भी फोन नं. याद नहीं।यह कहना गलत है कि मेरे पति घटना दिनांक को यात्रा नहीं कर रहे थे।....."

7. Respondent Evidence: (a) The Respondent Railway adduced examination-in-chief on affidavit of Sh. Bhikharam s/o Pokarram, Constable/RPF outpost Ramdevra, as RW/1, his affidavit includes narration that upon instruction at 06:20 hrs., he reached the place of incident where he found decapitation body of the deceased, head outside of the track and the torso inside the track, and during jama-talashi no ticket was recovered from the deceased. He was cross-examined as under:

"...किसी भी कर्मचारी या व्यक्ति ने नहीं बताया कि मृतक गाड़ी के सामने आकर टकराया है।"

(b) The Respondent Railway also adduced examination-in-chief on affidavit of Investigation Officer/RPF namely Sh. Mukhram s/o Hanumana, as RW/1, his affidavit includes narration that he got information by an unknown passenger. Along with the facts stated in affidavit of RW/1, the affidavit further reveals that he investigated the matter and concluded that the deceased was not a bonafide passenger and the condition of the dead body negates the occurrence of untoward incident. He was cross-examined as under:

".....यह बात किसी ने नहीं बताई कि मृतक गाड़ी के सामने आया हो या टकराया हो। ..."

8. Documents filed by the Parties:

The AW/1 exhibited the documents in evidence i.e. certified copy of: Marg report as Exh.A/1; Fard Naksha Mauka as Exh.A/2; aFard Surat Hal as Exh.A/3; Inquest Panchnama as Exh.A/4; Identification Panchnama as Exh.A/5; Post Mortem report as Exh.A/6; Dead body handing over receipt as Exh.A/7; Death certificate of father of the deceased as Exh.A/8; Adhar card of the Applicant and the deceased as Exh.A/9-10; Pariwar Ration card as Exh.A/11; Jan-Audhar card of the Applicant as Exh.A/12.

b. The Respondent filed the Statutory DRM report along with the Investigation report and documents annexed thereto as Exh.R/1.

FINDINGS

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9. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them and heard the arguments advanced by their counsel on behalf of rival parties. Our findings on the aforesaid issues are as under:

Issue No. 1 & 2:

10. These two issues are being taken up for consideration simultaneously, for the sake of convenience and as also these are interrelated.

11. It is the specific contention of the Respondent that during the search conducted by the GRP at the scene, no ticket was found from the deceased and that the head was lying outside the track and the torso was between the Railway track, such positioning of the body was corroborated with the documents annexed with the DRM report. So, the Id. counsel for the Respondent, while referring to the nature of injuries, vehemently contended that such injuries are inconsistent with those typically sustained from a fall from a running train. However, having regard to the condition of the body, it cannot be conclusively said that the incident does not fall within the ambit of an 'untoward incident' as defined under Section 123(c) of the Railways Act, 1989.

12. The counsel further submitted that the alleged place of incident falls between Ramdevra and Ashapura Gomat stations, in close proximity to Ramdevra. As per the Train Signal Register (TSR) of Ramdevra station, Train No. 12468 arrived at 02:44 hours and departed at 03:06 hours on the relevant date. Subsequently, Goods Train No. BSPC passed through Ramdevra station at 04:46 hours. The information regarding the presence of a dead body on the tracks was received at 06:20 hours. It is contended that if the deceased had indeed fallen from Train No. 12468, the body, particularly the torso lying between the tracks, would likely have been observed by the loco pilot of the subsequent Goods Train No. BSPC. However, no such report or intimation was made by the said loco pilot. In view of this omission, it is argued that the



presumption of the deceased having fallen from Train No. 12468 is not conclusively established



13. We have perused the investigation report, it is noted that the Respondent Railway, in its DRM report, concluded that the cause of death remains undetermined. Furthermore, no statement from the loco pilot of the said Goods Train was placed on record. The Respondent also failed to produce the loco pilot along with his Driver's Note Book, before the court which could have clarified whether the deceased's body was present on the tracks prior to the passage of the Goods Train. In light of this omission, an adverse inference is drawn against the Respondent. Additionally, during cross-examination, the deceased's mother testified that her son had informed her via mobile phone on 08.08.2022 about his intended journey from Jaipur to Ramdevra. The Fard Surat Hal (Exh. A/3) further confirms that a Vivo mobile phone, without a SIM card, was recovered near the site of the incident. Despite this, the Respondent failed to trace the location or movement of the deceased through mobile tracking prior to the incident. Accordingly, a second adverse inference is drawn against the Respondent.

14. So far as question upon bonafide passenger status of the deceased, the ticket was not recovered from the body of the deceased by the Police on the day of the incident. The Respondent has argued that since no ticket was recovered from the victim. So, he was not a bona fide passenger at the time of the incident. On this issue, we refer a case of Union of India Vs Rina Devi in Civil Appeal No. 4945 of 2018, wherein the Hon'ble Supreme Court has dealt with the issue "Burden of proof when ticket was not recovered, suspicious in an untoward incident". In the said judgment the initial burden has been cast upon the claimant, which can be discharged by filing an affidavit and then the burden shifts to the Respondent. The relevant portion of the judgment in the case of Union of India V/s Rina Devi (Supra) is reproduced as under:

"mere absence of ticket with such an injured or deceased will not negate the claim that he was a bona fide passenger. The initial burden

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will be on the claimant, which can be discharged by filing an affidavit of the relevant facts, and the burden will then shift to 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 be explained accordingly".



11. AW/1, mother of the deceased, has deposed on oath that the deceased had purchased the ticket from Jaipur to Ramdevra station. The Respondent cross-examined the said witness, but could not extract anything in its favor. Thus, the Applicant has successfully discharged her initial burden by filling out the affidavit. The Respondent has failed to establish that the deceased was not a bona fide passenger at the material time of the incident by adducing any cogent evidence. In the present case, there is every possibility that the ticket might have been lost in an accident of such magnitude at the place of the incident. Therefore, it can be held that the deceased was travelling with a ticket on the relevant day.

15. In view of the facts and circumstances of this case and the preponderance of evidence on record, we have no hesitation in concluding that the deceased, while traveling as a bona fide passenger, had accidentally fallen down from a running train, sustained serious injuries, and died thereafter. Accordingly, the incident is covered under "untoward incident" as defined under Section 123 (c) (2) read with Section 124-A of the Railways Act, 1989. Hence, we answer issues Nos. 1 and 2 in the affirmative.

Issue No. 3 & 4:

16. It is averred that the Applicant is mother of the deceased and the father has died before the incident. To support the dependency, a copy of Aadhar cards of the deceased and the Applicant and Death certificate of the father have been placed on record. The Respondent failed to dispute relationship of the Applicant with the deceased and pleadings made on that account. Hence, it

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is concluded that the Applicant is the sole dependant of the deceased within the meaning of Section 123 (b) (i) of the Railways Act, 1989.

17. The incident has occurred on 09.08.2022. Thus, the Applicant will be entitled to get ₹ 8,00,000/- as compensation from the Respondent Railway administration on account of death of Kamlesh S/o Late Kailash Chand, in an untoward incident, as prescribed under Part-I of the Schedule appended to Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 w.e.f. 01.01.2017. Both these issues are decided accordingly in favour of the Applicant.

On the facts and in the circumstances of this case, we find it just and proper to award compensation as mentioned below;

ORDER

18. The application is allowed. The Respondent Railway shall pay to the Applicant a sum of ₹ 8,00,000/- (₹ Eight lakhs) as compensation as per apportionment given below. The awarded sum will carry simple interest @ 9% p.a. from the date of incident, i.e. 09.08.2022, till the date of this order.

19. The Respondent Railway Administration is directed to deposit the whole amount along with interest with the Registry of RCT/Jaipur within a period of 30 days from the date of receipt of this order, failing which simple interest @ 9% p.a. is entitled on the compensation amount from the date of award till the date of realization. Further the Respondent is directed to place the proof of the awarded amount on record with up to date interest, if any, along with the calculation sheet.

20. The Registry is directed to deposit ₹ 80,000/- along with accrued interest, into her savings bank account through ECS/NEFT. Accordingly, it is ordered that balance amount ₹ 7,20,000/- shall be invested in a Fixed Deposit Receipt (FDR) in her name with any nationalized bank for a period of three (3) years. The bank shall credit the interest accrued on the said FDR to her savings bank account on a monthly basis. The Applicant shall be at liberty to

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withdraw interest, occurring on FDR, according to her convenience. Upon maturity of the FDR, the bank shall release the FDR amount along with interest (if any), into her savings Bank A/c.

21. The Applicant(s) is/are hereby directed to furnish the particulars of his/her/their savings bank account of a Nationalized bank *near to his/her/their permanent place of residence* along with a copy of Aadhar Card, PAN card, two photographs, specimen signature and pass book of the bank with necessary endorsement of the bank that no debit card/Cheque book has been issued, with the Registry of RCT- Jaipur Bench. So that after being satisfied with such KYC norms amount can be released. The Applicant(s) is/are directed to produce the copy of the order passed by the Tribunal before the concerned bank whereupon the bank is directed to make an endorsement on the passbook.

22. The Registry is directed to defer the disbursement of award amount till the passbook of saving bank account of the Applicant(s) in a bank near the place of their permanent residence is not produced along with necessary endorsement.

23. The Registry is further directed to ensure that the statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished by the Bank to the Applicant(s).

24. Further, we deem it proper to direct the concerned bank that :

(a) The Bank shall not permit any joint name(s) to be added in the savings bank account(s) or fixed deposit amount of the Applicant(s) i.e. savings bank account(s) of the Applicant(s) shall be an individual bank account and not joint account.

(b) The Bank shall not issue any Cheque book and debit card to the Applicant(s). However, in case the debit card or Cheque has already been issued, the Bank shall cancel the same before the disbursement of the awarded amount.

(c) No loan, advance, withdrawal or premature discharge is allowed on fixed deposit without the permission of the court.

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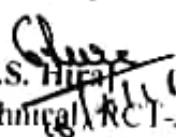
(d) The Bank shall make an endorsement on the pass book(s) of the Applicant(s) to the effect that no Cheque book and/or debit card have been issued.

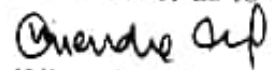
(e) The statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished to the Applicant(s). Upon maturity of the said FDR, the bank shall release the FDR amount(s), along with interest (if any) into savings Bank A/c of the Applicant(s). The Bank shall allow the Applicant to withdraw interest, accrued on the FDR, in her savings bank account at her convenience.

(f) The Bank is directed not to permit any debit to Saving Bank of the Applicant(s) from any electronic channel or e-payment platform and to permit the Applicant(s) to withdraw money from their savings Bank Account by means of a withdrawal form only.

25. The Registry is directed to send a free certified copy of this judgment to the Respondent, and to the Applicant at her postal address mentioned in the claim application by Registered A.D. in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

26. In terms of the above, the present claim application is disposed of. Let this case file be consigned to the Records Room. No order as to costs.


[G.S. Hirani]
Member (Technical)/RCT-Jaipur

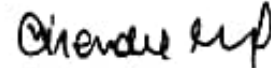

[Virendra Kumar Goyal]
Member (Judicial)/RCT-Ahmedabad
@ Circuit Bench/RCT-Jaipur

Judgment is pronounced through virtual mode and signed today.

Place : Jaipur.

Date : 16.10.2025.


[G.S. Hirani]
Member (Technical)/RCT-Jaipur


[Virendra Kumar Goyal]
Member (Judicial)/RCT-Ahmedabad
@ Circuit Bench/RCT-Jaipur