



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No. OA-II-75/2022



CORAM: Ms. Jhanja Tripathy, Hon'ble Member (Technical)

Date of Registration: 30.08.2022

Date of Judgment: 04.12.2023

Balu Singh son of Shri Umrao Singh, aged about 27 years,
resident of Village Jakhni, Post Kundla, Police Station Gangdhar,
District Jhalawar (Rajasthan).

.....Applicant

Versus

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

....Respondent

Claim for Rs.6,00,000/- along with interest'

PRESENT

Mr. Manmohan Gupta, learned counsel for the applicant.
Mr. Jangbahadur Khan, learned counsel for the respondent.

JUDGMENT

1. Case in hand has been preferred before this Tribunal by Shri Balu Singh 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.
2. It is the case of the applicant that on 13.4.2022 he was travelling from Chaumahla to Vadodra by Train No.19820 holding a valid



second class railway journey ticket bearing No.ALA-76794635. During journey, when the said train reached Ravti railway station, he got down from the train to drink water and after doing so when he was boarding the train, the train suddenly started moving and as a result thereof he lost his balance and accidentally fell down from the moving train. Due to fall from the moving train, he suffered amputation of two fingers of left hand and one finger of right hand besides multiple injuries to other parts of the body. Further, he was shifted to District Hospital, Ratlam by the Station Master, Ravti railway station from where after administering him first-aid, he was referred to M.Y.Hospital, Indore where he was operated upon. He was discharged from there on 21.4.2022. Relevant entry with regard to this incident, was made by the Police in Rapat Roznamcha Aam.

3. In support of his claim, the applicant has made available on record the original railway journey ticket, certified copies of Memo issued by the GRP, Ratlam, Injury Report, Admission Ticket of District Hospital, Ratlam, extract of Rapat Roznamcha Aam of Police Station, Indore, the original Discharge Summary, true copies of Aadhaar Cards, Jan 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 on 13.4.2022, the applicant met with the alleged incident in the process of boarding the moving train bearing No.19820 which is a punishable offence under Section 156 of the Railways Act, 1989. The alleged incident is covered under clause (b) to the proviso to Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicant. There is no evidence and/or witness to the incident. The applicant did not show his ticket to the any of the railway official. Hence, it is

established that he was not a bonafide passenger of the train in question. The burden lies upon the applicant to prove his 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 21.10.2022:

- 1- Whether the applicant was travelling on a valid railway journey ticket and was a bonafide passenger of the train in question at the relevant time?
 - 2- Whether the alleged incident falls under the definition of Section 123 (c) (2) of the Railways Act, 1989 and the Railway Administration is liable to pay compensation to the applicant?
 - 3- Whether the applicant is entitled to compensation as claimed under Para-16 of the claim application?
 - 4- What relief, if admissible?
6. In the evidence, applicant Shri Balu Singh has filed his own examination-in-chief on affidavit along with certain documents. The documents filed along with the claim application, were got exhibited by him as A/1 to A/12. He was cross-examined by learned counsel for the respondent Railway Administration on 05.7.2023.
7. Respondent Railway Administration, in its evidence, has filed examination-in-chief on affidavits of Shri I.L.Bhatia, Train Manager and Shri Dinesh Kumar, Constable, RPF. They were cross-examined by learned counsel for the applicant on 5.10.2023 and 25.10.2023 respectively.

FINDINGS

8. I 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.
My findings on the aforesaid issues are as follows:

Issue No.1 & 2 -

Both these issues are being taken up and decided together.

Applicant Shri Balu Singh has deposed by way of his affidavit that on 13.4.2022 he was travelling from Chaumahla to Vadodra by Train No.19820 holding a valid second class railway journey ticket bearing No.ALA-76794635. During journey, when the said train reached Ravti railway station, he got down from the train to drink water and after doing so when he was boarding the train, the train suddenly started moving and as a result thereof he lost his balance and accidentally fell down from the moving train. Due to fall from the moving train, he suffered amputation of two fingers of left hand and one finger of right hand besides multiple injuries to other parts of the body. Further, he was shifted to District Hospital, Ratlam by the Station Master, Ravti railway station from where after administering him first-aid, he was referred to M.Y.Hospital, Indore where he was operated upon. He was discharged from there on 21.4.2022. Relevant entry with regard to this incident, was made by the Police in Rapat Roznamecha Aam. During cross-examination nothing contradictory has come out. The documents filed along with the claim application, were got exhibited by him as A/1 to A/12.

11. *Per contra*, learned counsel for the respondent has argued that applicant at the material time, was not a bonafide passenger within the meaning of Section 2 (29) read with Section 124A of the Railway Act, 1989 as he did not show his ticket to any of the railway officials. He has further argued that applicant suffered injuries in the process of boarding the moving train which is a punishable offence under Section 156 of the Railways Act, 1989. Thus, the alleged incident is 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. It has further been argued by him that the said fact stands corroborated with the testimonies of both the witnesses of the respondent and the original DRM's Report. In the end, dismissal of the claim application with costs, has been sought by him.

I 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 I.L.Bhatia has deposed by way of his affidavit that no untoward incident as alleged, took place on that day. His statements are available with the DRM's Report (Ex.R/1). During cross-examination, he has maintained the same averments.
14. Second witness of the respondent Railway Administration Shri Dinesh Kumar has deposed by way of his affidavit that on 13.4.2022 when he reached Ravti railway station by Train No.09381, he saw an injured person. On query, he told his name Balu Singh. It was also told by him that he was travelling from Choumahla to Vadodra by Train No.19820. He got down from the train at Ravti railway station to drink water and after doing so when he was boarding the moving train, fell down from the train and suffered injuries. The injured came there after passing of the train. He was shifted to the Ratlam along with Shri Ajit Kumar, Pointsman after administering him first-aid. During cross-examination, he has stated that he is not a witness to the incident.
15. The testimonies of both of the witnesses of the respondent Railway Administration, in my considered view, are of no help to the respondent to prove that the injured at the material time, was not a bonafide passenger and he met with this incident in the process of boarding the moving train. Thus, the alleged incident is covered



under clause (c) to the proviso to Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicant.



16. The applicant has made available on record the original railway journey ticket as Ex.A/1 and perusal of the same reveals that the said ticket was issued in favour of one adult to perform his journey from Choumahla to Vadodra on 13.4.2022. Besides, the DRM's Report filed by the respondent Railway Administration also admits the fact that the applicant was having a valid ticket at the material time.
17. The Railways Act, 1989 is a social beneficial piece of legislation to protect the bonafide travellers who have a valid ticket or authority as per the definition of Section 2 (29) read with Section 124A of the Railways Act, 1989. The action claimed under Section 124A of the Railways Act, 1989 is, thus, maintainable and it has been held to be in a form of a strict liability for which the Railways are liable to pay compensation and an action is liable to be maintained on that account and compensation is to be paid.
18. Reliance is placed on the judgments passed by the Hon'ble Supreme Court in the case of *Union of India v. Prabhakaran Vijaya Kumar (2008) 9 SCC 527* and *Union of India v. Rina Devi 2018 SCC OnLine SC 507*.
19. In view of the judgments quoted above, my discussions in foregoing paras and looking at the facts and circumstances of the instant case, it is held that the applicant Shri Balu Singh was a bonafide passenger of the train in question at the material time within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 and he suffered injuries 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 for which the respondent Railway Administration is liable to pay

compensation to the applicant. Accordingly both these issues are decided in favour of the applicant and against the respondent Railway Administration.

Issue No.3 & 4 -

Both these issues are being taken up and decided together.

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 Shri Balu Singh, both the learned counsels have agreed that the applicant suffered amputation of two fingers of left hand and one finger of right hand as a result of the said untoward incident. To prove the injuries suffered by him, relevant medical documents have been produced by the applicant as Ex.A/4 to A/7. The respondent Railway Administration has not adduced any evidence to controvert the same.

22. Applying the principles laid down in *Rina Devi (supra)* in the present case, it is held that applicant on account of amputation of two fingers of left hand as held above, is entitled to get an amount of Rs.1,60,000/- being a scheduled injury as prescribed under Item No.(9) of Part-III of the Schedule appended to Rule 3 (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016. Since the amputation of one finger of right hand suffered by the applicant, is non-scheduled in nature, I by exercising the discretionary power given under Rule 3 (3) of the said Rules and after taking into consideration the medical evidence, feel it just and reasonable to grant a sum of Rs.40,000/- as compensation for the said injury. Thus, in total, the applicant is held entitled to get a sum of Rs.2,00,000/- along with interest @ 9% per annum from the date of incident i.e. 13.4.2022 till the date of award. Both these issues are decided accordingly.



ORDER

23. The claim application of the applicant is partly allowed. The respondent Railway administration is directed to pay Rs.2,00,000/- to the applicant as compensation along with interest @ 9% per annum from the date of incident i.e. 13.4.2022 till the date of award.

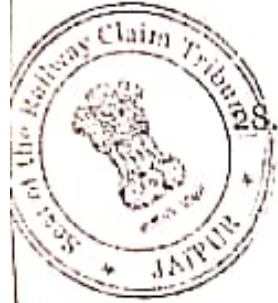


24. The payment shall be made to the applicant in the manner described as under:

Name of the applicant	Amount to be paid to the applicant immediately by NEFT/RTGS	Amount to be invested in fixed deposit scheme of a Nationalized Bank and the interest to be credited to his SB account monthly
Balu Singh	Rs.20,000/- (Rs. twenty thousand only) along with whole amount of interest.	Rs.1,80,000/- (Rupees one lakh eighty 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 his SB Account.

25. 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.
26. The applicant is hereby directed to submit the details of his Aadhaar linked Bank account of a Nationalized Bank situated nearest to his place of residence to the Additional Registrar of this Tribunal.

27. The Bank shall not permit any joint name(s) to be added in the Saving Bank Account of the applicant i.e. the Saving Bank Account of the applicant shall be an individual Saving Bank Account and not a Joint Account.



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 account of the applicant so that no debit card be issued in respect of the account of the applicant from any other Branch of the Bank.

29. The Bank shall make an endorsement on the passbook 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 passbook 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 his Saving Bank Account 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 his 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.

Judgment pronounced, signed and sealed in open Court today i.e.
04.12.2023.

(Jhanja Tripathy)
Member (Technical)
RCT/Jaipur