



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No. OA-II-83/2022



CORAM: Mr. Labh Singh, Hon'ble Member (Judicial).
Ms. Jhanja Tripathy, Hon'ble Member (Technical).

Date of Registration: 22.09.2022
Date of arguments: 12.06.2024
Date of Judgment: 18.06.2024

1. Sushila Devi wife of Late Shri Sukhveer Prasad, aged about 39 years.
2. Monika daughter of Late Shri Sukhveer Prasad, aged about 17 years.
3. Nitesh Kumar Rulaniya son of Late Shri Sukhveer Prasad, aged about 2½ years being minor hence, through her natural guardian and mother Smt. Sushila Devi wife of Late Shri Sukhveer Prasad.
4. Dhudaram Rulaniyan alias Dhudaram son of Late Shri Ganpat Ram, aged about 66 years.
5. Smt. Meera Devi wife of Shri Dhudaram Rulaniyan alias Dhudaram, aged about 58 years.

All are residents of Bhuriya Ki Dhani, Post Palsana, Tehsil Sikar, District Sikar (Rajasthan).

.....Applicants

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur (Rajasthan).

....Respondent

2. Kavita daughter of Late Shri Sukhveer Prasad, aged about 18 years, resident of Bhuriya Ki Dhani, Post Palsana, Tehsil Sikar, District Sikar (Rajasthan).

.....Proforma respondent

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Claim for Rs.8,00,000/- along with interest

PRESENT

Mr. Rajesh Panda, learned counsel for the applicants.

Mr. Tikam Chand Sharma, learned counsel for the respondent.

JUDGMENT

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



1. Case in hand has been preferred before this Tribunal by the wife, children and parents 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.8,00,000/- along with interest on account of death of Shri Sukhveer Prasad in an alleged untoward incident.
2. It is the case of the applicants that on 12.6.2022 Shri Sukhveer Prasad along with his mother Smt. Meera Devi came to Palsana railway station to perform their journey from Palsana to Kota by Train No.19814 and for the aforesaid journey, he purchased a valid second class railway journey ticket bearing No.UDA-11009164, valid for two adults. Shri Chhotu Ram, cousin of Shri Sukhveer Prasad came to see them off at Palsana railway station. Since there was rush of passengers in the general coach of the said train, Shri Sukhveer Prasad was compelled to stand in the gallery near the door of the coach. It has been averred in the claim application that when the said train departed from Palsana railway station, Shri Sukhveer Prasad due to a sudden jerk of the train and resultant loss of balance, accidentally fell down from the running train and suffered multiple grievous injuries. Further, he was shifted to the Government Hospital, Palsana from where after administering him first-aid, he was shifted to S.K. Hospital, Sikar. Later, Shri Sukhveer Prasad was declared brought dead at J.D.Hospital, Reengus while he was being shifted to the SMS Hospital, Jaipur for further treatment. The Government Railway Police on receipt of the information about this incident, registered a Marg Report and also



completed other requisite formalities under Section 174 Cr.P.C. including postmortem on the dead body and handed it over to the family members for final rituals. It has further been averred in the claim application that the relevant railway journey ticket on which Shri Sukhveer Prasad and his mother Smt. Meera Devi were performing their aforesaid journey, was kept by the Police in its custody after recovery from the dead body and that Shri Sukhveer Prasad was a bonafide passenger of the train in question at the time of occurrence of the incident.

3. To substantiate their claim, the applicants have made available on record certified copies of the railway journey ticket, extracts of Rapat Roznamcha Aam, Marg Report, Fard Shinakhti Laash, Fard Naksha Mauka, Fard Panchayatnama & Surat Haal Laash, Fard Jabti railway journey ticket, Postmortem Report, statements of Smt. Meera Devi & Smt. Sushila Devi, true copies of the Aadhaar Cards, Family Ration 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 pleading therein that the applicants have filed the present claim application on the basis of false averments with an intention to get undue monetary benefit. It has been pleaded on behalf of the respondent Railway Administration that there is no witness to purchasing the ticket by the deceased. The deceased was not having any ticket at the relevant time and the ticket claimed to have been recovered by the Police, was managed subsequently. In fact, he came to see off his relatives at Palsana railway station and suffered injuries in the process of getting down from the moving train at Palsana railway station itself. It has further been pleaded on behalf of the respondent Railway Administration that during search made on the person of the dead body, no ticket was recovered. Thus, the deceased was not a bonafide passenger at the material time. According to the eye-witness to the incident Shri

Man Singh, Pointsman, the deceased met with this incident while he was attempting to deboard the moving train. This act of the deceased is a criminal offence under Section 156 of the Railways Act, 1989 and, therefore, 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 applicants. 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 21.10.2022:
- 1) *Whether the deceased 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 deceased met with an untoward incident due to fall from the passenger carrying train, suffered injuries and died as a result thereof and the present case is covered under the definition of Section 123 (c) (2) read with Section 124A 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-VII of the claim application?*
 - 4) *What relief?*
6. In the evidence, applicant No.1 Smt. Sushila Devi 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. Besides, examination-in-chief on affidavit of Shri Chhotu Ram, cousin of the deceased has also been filed on behalf of the applicants. Both of them were cross-examined by learned counsel for the respondent Railway Administration on 23.2.2023.



7. The respondents Railway Administration in its evidence, has filed examination-in-chief on affidavits of Shri Man Singh, Pointsman and Shri Bacchu Singh, Enquiry Officer. They were cross-examined by learned counsel for the applicants on 4.5.2023 and 28.6.2023 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.1 & 2:

9. Both these issues being taken up and decided together being inter-linked with each other.
10. Applicant No.1 Smt. Sushila Devi has deposed by way of her affidavit that on 12.6.2022 her husband Shri Sukhveer Prasad and her mother-in-law Smt. Meera Devi were to perform their journey from Palsana to Kota by Train No.19814 and for the aforesaid journey, her husband Shri Sukhveer Prasad had purchased a valid second class railway journey ticket bearing No.UDA-11009164, valid for two adults. She has further deposed that her brother-in-law Shri Chhotu Ram went to see them off at Palsana railway station. Since there was rush of passengers in the general coach of the said train, her husband Shri Sukhveer Prasad could hardly get a space to stand in the gallery near the door of the coach whereas her mother-in-law Smt. Meera Devi somehow accommodated inside the coach. It has further been deposed by her that when the said train departed from Palsana railway station, her husband Shri Sukhveer Prasad due to a sudden jerk of the train and resultant loss of balance, accidentally fell down from the running train and suffered multiple grievous injuries. Further, he was shifted to the Government Hospital,



Palsana from where after administering him first-aid, he was shifted to S.K. Hospital, Sikar. Later, her husband Shri Sukhveer Prasad was declared brought dead at J.D.Hospital, Reengus while he was being shifted to the SMS Hospital, Jaipur for further treatment. Further, the Government Railway Police on receipt of the information about this incident, completed certain requisite formalities under Section 174 Cr.P.C. including postmortem on the dead body and handed it over to the family members for final rituals. It has also been deposed by her that the relevant railway journey ticket on which her husband Shri Sukhveer Prasad and her mother-in-law Smt. Meera Devi were undertaking their aforesaid journey, was kept by the Police in its custody after recovery from the dead body and that her husband Shri Sukhveer Prasad was a bonafide passenger of the train in question at the time of occurrence of the incident. During cross-examination, she has stated that it is wrong to say that her mother-in-law and Chhotu were going to Kota on the date of incident. It is true that she did not see her mother-in-law purchasing the ticket. It is true that her mother-in-law got down at Reengus railway station and returned to Palsana. It is wrong to say that her husband met with this incident in the process of getting down from the moving train. Her husband was going to Kota. Relevant documents filed along with the claim application were got exhibited by her as A/1 to A/22.

11. Applicants' witness Shri Chhotu Ram has deposed by way of his affidavit that on 12.6.2022 his cousin Shri Sukhveer Prasad and his aunt Smt. Meera Devi were to travel from Palsana to Kota and he went to see them off at Palsana railway station. He has further deposed that his cousin Shri Sukhveer Prasad purchased a valid second class railway journey ticket bearing No.UDA-11009164, valid for two adults for their aforesaid journey. He has further deposed that due to rush of passengers in the train, his cousin was forced to stand in the gallery near the door of the coach and after departure of the train, he due to a sudden jerk of the train and resultant loss of



balance, accidentally fell down from the running train, suffered grave injuries and died subsequently as a result thereof. Further, the Police after completion of certain requisite formalities including postmortem on the dead body, handed it over to the family members for last rites. It has also been deposed by him that the relevant railway journey ticket on which his cousin Shri Sukhveer Prasad and his aunt Smt. Meera Devi were undertaking their aforesaid journey, was kept by the Police in its custody after recovered from the pocket of the trouser of the deceased and that Shri Sukhveer Singh was a bonafide passenger of the train in question at the material time. During cross-examination nothing contradictory has come out which could lead us to doubt the testimony of this witness of the applicants.

12. Learned counsel for the respondent on the other hand, has argued that deceased 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 as he was not having any ticket at the relevant time. In fact, the deceased came to see off his relatives at Palsana railway station and he was not travelling by the train in question. He has further argued that the deceased met with this incident in the process of alighting from 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 applicants. It has also been argued by him that the said fact stands confirmed from the testimonies of both the witnesses of the respondent Railway Administration and the original DRM's Report. Hence, the claim application filed by the applicants is liable to be dismissed with costs.
13. We have carefully heard the submission made by both the parties and also perused the material made available on record by them.



14. First witness of the respondent Railway Administration Shri Man Singh, Pointsman has deposed by way of his affidavit that on 12/13.6.2022 he was on duty as Pointsman at Palsana railway station in the shift of 20.00 hours to 08.00 hours. During his shift, Train No.10814 was arrived at Palsana railway. At the time of departure of the said train, he saw a person falling down from the train. On this, he reached there and informed the on duty Station Master. The Station Master, in turn, called the Ambulance. A Joint Inspection Report was also prepared with regard to the said incident. It has also been deposed by him that he searched the injured now deceased and no ticket was recovered from his possession. The Joint Inspection Report bears his signatures. Later, the Ambulance took away the injured to the S.K. Hospital, Sikar. During cross-examination, he has stated that he is a witness to the incident. He saw the passenger falling down from the train. The RPF reached the site of incident in his presence. His statements were recorded by the RPF but the RPF did not mention that no ticket was recovered from the person of the injured. No papers formalities were carried out in his presence. He searched the injured at the site of incident but he cannot produce any document to this effect. It is true that the said incident took place at about 11.00 PM and there was no electricity on the platform at that time. He saw Shri Sukhveer Prasad falling down from the train. He searched all the pockets of the injured now deceased.
15. Second witness of the respondent Railway Administration Shri Bacchu Singh, Enquiry Officer has deposed by way of his affidavit that enquiry in the present matter, was conducted by him. The enquiry was entrusted to him after filing of the claim application. He went to the site of incident on 12.6.2022. A Joint Inspection Note was prepared with regard to the said incident and according to the same, no ticket or any travelling authority was recovered from the person of the injured. During enquiry, he recorded the statements of certain relevant people. During enquiry, it was found



that as per Shri Man Singh, eye-witness to the incident, no ticket or any travelling authority was recovered. During enquiry and as per the documents collected by him, it was found that Shri Sukhveer came to see off his relatives and his death happened as a result of injuries sustained by him in the process of getting down from the moving train. The alleged incident is not covered under the definition of untoward incident within the meaning of Section 123 (c) but is covered under the exceptions provided with Section 124A of the Railways Act, 1989 for which no compensation is payable by the respondent Railway Administration. During cross-examination, he has stated that enquiry in the present matter was conducted by him. During enquiry, he collected the relevant papers from the GRP. He did not obtain the photo copy of the railway journey ticket from the GRP as it was not available there. He approached the GRP after 13.6.2022 for obtaining the documents. He has further stated that he recorded the statements of Shri Man Singh but he did not mention anything regarding ticket. When he reached the site of incident, the deceased was not there and the search was not made in this presence. No independent witness was available at the site of incident at that time. He went to the site of incident at about 01.00 AM on 13.6.2022 and electricity was there. It is true that the deceased sustained injuries as a result of a fall from the train. The Station Master and Shri Man Singh, Pointsman stated before him that deceased came to see off his relatives.

16. From the testimonies of both the aforesaid witnesses of the respondent Railway Administration, it is established that deceased fell down from the train on that day and suffered injuries resulting his subsequent death. Although Shri Man Singh, Pointsman has deposed by way of his affidavit that during search made by him on the person of the injured now deceased, no ticket was found, simultaneously it is true that the said fact was not stated by him before the RPF. We are unable to understand as to why he kept silence about the same at the time of making statements before the



RPF. Besides, none of the documents was prepared by the GRP in the ordinary course of duty, indicates that during search made on the person of the injured now deceased, no ticket was recovered. Second witness of the respondent Railway Administration neither searched the dead body nor was he present at the time of search claimed to have been made by Shri Man Singh. Hence, the testimonies of both the witnesses of the respondent, in our considered view, do not have sufficient force to prove that the deceased at the material time, was not a bonafide passenger of the train in question. Therefore, no adverse inference, in our considered view, can be draw particularly when falling down of the deceased from the train in question, has been admitted on behalf of the respondent Railway Administration and keeping in view the fact that the testimonies of applicants' witnesses remained unrebutted and unchallenged throughout.

17. Ex.A/1 is the certified copy of railway journey ticket having an endorsement made by the Police regarding taking the same on record after recovery from the person of the deceased in presence of the witnesses. The recovery of said ticket from the person of the deceased, further stands conformed from the certified copy of Fard Jabti railway journey ticket (Ex.A/10). Besides, all the documents prepared by the Police clearly indicate that death of Shri Sukhveer Prasad happened due to a fall from the moving train and resultant injuries and this fact has also not been disputed by the respondent Railway Administration during its entire pleadings. Although it has been pleaded on behalf of the respondent Railway Administration that deceased met with this incident in the process of the deboarding the moving train and, therefore, the alleged incident is covered under clause (b) and (c) to the proviso to Section 124A of the Railways Act, 1989 for the purpose of denying compensation to the applicant, no evidence whatsoever has been adduced by them to establish the same. A mere plea without supported by any cogent or reliable evidence, in our considered view, cannot be taken into

consideration to draw an adverse inference particularly when falling down of the deceased from the train in question has been admitted on behalf of the respondent Railway Administration.



18. Reliance is place on the judgment of the Hon'ble Supreme Court in the case of *Union of India v. Rina Devi* 2018 SCC OnLine SC 507.

19. In view of the judgment quoted above, our discussions in foregoing paras and looking at the peculiar facts and circumstances of this particular case, it is held that deceased Shri Sukhveer Prasad was travelling as a bonafide passenger at the relevant time 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:

20. Both these issues are being dealt with and decided together.

21. Case in hand has been filed before this Tribunal by the wife, children and parents of the of the deceased being the only dependants. Applicant No.1 Smt. Sushila Devi vide Para-5 of her affidavit, has deposed that present applicants and proforma respondent No.2 are the only dependants of the deceased. During cross-examination nothing contradictory has come out. To prove the dependence of the present applicants and proforma respondent No.2, true copies of Aadhaar Cards, Birth Certificate and Family Ration Cards have been placed on record by the applicant as Ex. A/15 to A/22. 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 and proforma

respondent No.2. 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.



22. Applying the principles laid down in *Rina Devi (supra)* in the present case, it is held that the present applicants and proforma respondent No.2 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. 12.6.2022 till the date of award. Both these issues are decided accordingly.

ORDER

23. The claim application is allowed in favour of the applicants and proforma respondent No.2. 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. 12.6.2022 till the date of award.
24. The payment shall be made to the applicants and proforma respondent No.2 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 a Nationalized Bank and the amount of interest to be credited to their SB Account on monthly basis
Smt. Sushila Devi (wife of the	Rs.55,000/- (Rs. fifty five	Rs.4,95,000/- (Rupees four lakh ninety five



deceased)	thousand only) along with proportionate interest.	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.
Monika (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.
Nitesh Kumar Rulaniya (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.
Dhudaram Rulaniyan alias Dhudram (father 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.
Smt. Meera Devi (mother 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 her SB Account.
Kavita (daughter 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



		<i>amount shall be credited to her SB Account.</i>
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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 applicants and proforma respondent No.2 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 applicants and proforma respondent No.2 are hereby directed to submit the details of their Aadhaar linked Bank accounts of a Nationalized Bank situated nearest to their 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 or fixed deposit account of the applicants and proforma respondent No.2 i.e. their Saving Bank Accounts shall be an individual Saving Bank Account and not a Joint Account.
28. The maturity amounts of the FDRs be credited by Electronic Clearing System (ECS) in the said Saving Bank Accounts of the applicants and proforma respondent No.2.
29. No loan, advance, withdrawal, or pre-mature payment be allowed on the fixed deposit without permission of the Tribunal.
30. The concerned Bank shall not issue any cheque book and/or debit card to the applicants and proforma respondent No.2. 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 and proforma respondent No.2 so that no debit card be issued in respect

of the accounts of the applicants and proforma respondent No.2 from any other Branch of the Bank.



31. The Bank shall make an endorsement on the passbooks of the applicants and proforma respondent No.2 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 and proforma respondent No.2 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 and proforma respondent No.2 to withdraw money from their Saving Bank Accounts by means of a withdrawal form only.
32. 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.
33. In the facts and circumstances of the case, there is, however, no order as to costs.
34. 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.
35. Judgment pronounced, signed and sealed in open Court today i.e. 18.06.2024.

(Labh Singh)
Member (Judicial)
RCT/Jaipur

(Jhanja Tripathy)
Member (Technical)
RCT/Jaipur