

OA/IIU/JP/85/2022

BEFORE THE RAILWAY CLAIMS TRIBUNAL, JAIPUR BENCH,
JAIPUR

CORAM: SHRI LABH SINGH HON'BLE MEMBER (JUDICIAL)

Original Application: OA/IIu/JP/85/2022

Date of Filing: 22.09.2022

Judgment reserved on: 22.07.2024

Judgment pronounced on: 13.08.2024

Smt. Dhapu Bai wife of Late Shri Kishan Singh, aged about 72 years, resident of Village Devpura Nagar, Police Station Suwasra, District Mandsore (Madhya Pradesh).

Applicant

Versus

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

Respondent

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

Present:

For the applicant: Mr. Manmohan Gupta, Learned Advocate

For the respondent: Mr. Vivek Chaudhary, Learned Advocate

J U D G M E N T

1. The present claim application has been filed by the widow mother of the deceased, being the sole dependant, under Section 16 of the Railway Claim Tribunal Act 1987 read with Section 124-A of the Railways Act 1989 seeking compensation

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for an amount of Rs. 8,00,000/- (Rupees eight lakh only) along with interest and cost thereon on account of death of her unmarried son Shri Tej Singh alias Teju Singh (hereinafter to be referred as "the deceased") arising out of an untoward accident.

2. Briefly stated the facts of the case are that on 11.5.2022 the Station Master, Ramganj Mandi informed the Civil Police, Ramganj Mandi through a Memo that a dead body of an unknown person is lying on Ramganj Mandi - Julmi railway line near Kms.2/6-7. The said information has been given by Shri Om Prakash Fauji on telephone. On receipt of the information, the Civil Police registered a Marg Report No.23/2022 dated 11.5.2022 under Section 174 Cr.P.C. and also completed other requisite formalities including postmortem on the dead body and handed it over to the family members for final rituals of the deceased.
3. The case of the applicants is that on 10.5.2022, the deceased had to commence his journey from Ramganj Mandi to Suwasra by Train No.19104 for which he was having a second class railway journey ticket bearing No. ALA-76987109. It has been averred in the claim application that since there was rush of passengers in the train and he could not board the said train, he was advised by some people to undertake his journey by Train No.06614 which departs from Ramganj Mandi at 8.30 PM. On this, the deceased boarded the said

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train at 8.30 PM on the same day. Since there was rush of passengers in the said train, he could hardly get a space to stand in the gallery near the door of the coach. During journey, when the said train departed from Ramganj Mandi and started moving towards Jhalawar via Julmi Line, he due to rush of passengers, accidentally fell down from the running train in between Kms.2/6-7 in the night of 10.5.2022, suffered grave injuries and died on the spot. It has further been averred in the claim application that in the morning of 11.5.2022, the Station Manager, Ramganj Mandi informed the Civil Police, Ramganj Mandi through a Memo regarding the lying of a dead body near the railway track. On receipt of the information, the Civil Police registered a Merg Report No.23/2022 dated 11.5.2022 under Section 174 Cr.P.C. and also completed other formalities including postmortem of the dead body. Since the identity of the deceased could not be disclosed, news regarding this incident was published through Newspaper. Further, on 12.5.2022 Shri Dheerap Singh, nephew of the deceased contacted the Police and identified the deceased as his Uncle Shri Tej Singh alias Teju Singh. Later, the Police handed over the dead body of the deceased to Shri Dheerap Singh for cremation.

4. It has further been averred in the claim application that the railway journey ticket on which the deceased was performing his aforesaid journey was seized by the Police

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after recovery from the person of the deceased and that the deceased was a bonafide passenger of the train in question at the relevant time.

5. It has been stated by the applicant that she has not claimed or obtained any compensation with regard to the death of her unmarried son from any Authority or Court. Hence, her claim may be allowed.
6. Respondent railway appeared in pursuance of notice issued by this Tribunal and filed its written statement along with DRM report replying therein that the present claim application has been filed by the applicant on the basis of false averments with an intention to take undue monetary benefit. Though it has been pleaded in the claim application that the deceased was having a ticket ex. Ramganj Mandi to Suwasra whereas the dead body was found on the Ramganj Mandi and Julmi railway stations at Kms.23/6-7; however, the said place is not situated at the Ramganj Mandi and Suwasra route. Hence, it is established that the deceased was not a bonafide passenger at the relevant time. It has further been replied that the ticket claimed to have been recovered from the person of the deceased was issued at 15.16 hours on 10.5.2022 whereas the alleged train departed from Ramganj Mandi at 20.43 hours. As per the prevalent Railway Rules, the validity of the said ticket was only for three hours. Thus, the said ticket was not valid at the relevant time

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and, therefore, the deceased was not a bonafide passenger of the train in question.

7. It has further been replied by the respondent Railway that the alleged train by which the deceased was travelling, does not go to Suwasra. No Search Memo of railway journey ticket has been prepared. As per the Loco Pilot and Guard of the alleged train, neither anyone fell down from their train on that day nor was the alarm chain pulled. The death of the deceased happened due to a hit by some train and, therefore, 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. 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.
8. Based on the pleading of the parties, the following issues, for just and proper adjudication of the claim application, were framed by the Tribunal vide order dated 31.3.2023:-
 - (i) Whether the deceased was travelling on a valid railway journey ticket and was a bonafide passenger of Train No. 19104 (Mathura – Ratlam Memo) at the relevant time?
 - (ii) 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 if the present case is covered under the definition of Section

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123(c)(2) read with Section 124-A of the Railways Act 1989?

(iii) Whether the applicant is the sole dependant of the deceased and is entitled to compensation as claimed under Para-VII of the claim application?

(iv) Amount of relief, if any admissible?

9. The applicant, in order to prove her case, examined herself as AW/1 by filing her affidavit of evidence Exh. AW-1/1 filed in her examination-in-chief and reiterated the facts pleaded in the original claim application which are not reproduced here for sake of brevity and she was duly cross examined thereon. She further tendered certain documents Exh. A/01 to A/9 in support of her case.
10. Besides, the applicant also examined Shri Dheerap Singh as AW/2 by filing his affidavit of evidence in his examination-in-chief on affidavit. He was cross-examined by learned counsel for the respondent Railway on 28.2.2024.
11. Respondent Railway, in its oral evidence, examined Shri Aidan Singh, Enquiry Officer. He filed his affidavit of evidence Exh. RW-1 in his examination-in-chief and he was duly cross-examined by learned Counsel of the applicant.
12. Respondent railway has further relied upon its certified DRM report Exh.- R/01 along with annexure which is already placed on record. Respondent Railway has also filed an

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investigation report of Enquiry Officer, Railway Protection Force which is the part of the DRM report.

13. I have gone through the case file carefully and perused the pleadings of the parties and documents placed on record by the parties and heard the arguments put forth by the learned counsel for both the parties; and after hearing Learned counsel for the parties, I shall now proceed to consider the claim application on its merits, specifically within the ambit of issues framed in the present case.

Issue No. (i) & (ii)

14. I am taking up both the issues together for consideration and decision thereon being interconnected to each other.
15. Insofar as issue no (i) is concerned, the applicant, in order to prove the deceased as bonafide passenger of the train, relied upon railway journey ticket bearing No. ALA-76987109 to travel from Ramganj Mandi to Suwasra. The said railway journey ticket was recovered from the person of the deceased by the Civil Police, Ramganj Mandi. It has been admitted by respondent railway in its DRM report that the dead body of the deceased was found 2.6 Kms. away from Ramganj Mandi railway station on Ramganj Mandi - Jhalawar railway line towards Julmi station.
16. The case of the applicants is further supported by Fard Panchayatnama Exh. A/02 wherein it has been recorded that the deceased suffered injuries to his body resulting in his

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death. It has been recorded therein that it was a railway accident.

17. The applicant examined herself as AW/01 to prove her case. She has stated on oath that the deceased was travelling from Ramganj Mandi to Suwasra by Train No.06614 on the date of incident.
18. During her cross-examination, she has stated that she is not a witness to purchasing the ticket. She admitted the suggestion that the deceased, who was a labourer, was coming from Ramganj Mandi to Suwasra. She further stated that she is not aware as to where the said incident took place. She further stated that she received all information from the Police.
19. Shri Dheerap Singh while appearing as AW-2 deposed by filing his affidavit of evidence Exh. AW-1/1 in his examination-in-chief that he is the nephew of the deceased. On 10.5.2022, the deceased purchased a ticket No.ALA-76987109 to travel from Ramganj Mandi to Suwasra by Train No.19104 but he could not board the train due to some reasons and boarded the Train No.06614 (Kota - Jhalawar City Special) at 8.30 PM due to lack of knowledge as the deceased was illiterate. It has further been deposed by him that since the identity of the deceased could not be established, the Police published a news item in the local Newspapers with regard to the incident. After having information from

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the newspaper, he along with other family members approached the Police and identified the deceased as his Uncle Shri Tej Singh alias Teju Singh. Further, the Police registered a Marg Report No.23/2022 dated 11.5.2022 under Section 174 Cr.P.C. and also completed other mandatory formalities including postmortem on the dead body and handed over the same to him for final rituals of the deceased. It has also been deposed by him that the relevant railway journey ticket on which the deceased was performing his aforesaid journey, was kept by the Police in its custody. The deceased was unmarried and his mother i.e. the applicant is the sole dependant. During his cross-examination, he stated that he is not a witness to the purchasing of the ticket by the deceased, boarding the train and incident of falling down of the deceased from the train. He stated that the facts narrated in the affidavit of evidence Exh.AW-1/1 are as per the information given by the Police. He further admitted that his statement was recorded by the Enquiry Officer RPF and his attention was drawn towards his statement Exh. AW-2/1. He admitted that the place of incident is not situated in between Ramganj Mandi and Suwasra. He denied the suggestion that the deceased was not a bonafide passenger at the relevant time of incident in question.

20. Since Shri Dhreerap Singh is not an eye-witness to the incident and has deposed that his deceased boarded a wrong

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train due to lack of knowledge and illiteracy, the Tribunal directed the learned counsel for the applicant to produce him for further clarification. In compliance of the direction of the Tribunal, Shri Dheerap Singh appeared before the Bench on 22.7.2024 for further examination and stated that he is illiterate and can only sign. The RPF Official recorded his statement and also repeated the same before him. He signed his statement AW/2 after hearing the same. It is true that he is not aware as to how the deceased reached towards Julmi railway line. He was told by the Police that the deceased fell down from the train due to rush and died.

21. It is not the case of the respondent railway that the deceased was seen by anyone crossing the railway line. It is also not the case of the respondent railway that the deceased was hit by any train at the place of incident. It is also not a case of suicide. The presence of the deceased at the place of incident could be due to falling down from some unknown train boarded wrongly by the deceased.
22. Therefore, in view of the above, the applicants have discharged the initial burden of proof placed on her by proving the deceased as bonafide passenger as defined in Section 2(29) of the Railways Act 1989 and the incident in question as untoward incident as defined in Section 123(c)(2) of the Railways Act 1989. The burden now shifts

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upon respondent railway to disprove the case of the applicants.

23. Ex.A/3 is the copy of railway journey ticket and perusal of the same reveals that the said ticket was issued in favour of one adult to perform his journey from Ramganj Mandi to Suwasra on 10.5.2022.
24. It has been pleaded on behalf of the respondent Railway that the said ticket was purchased at 15.16 hours on 10.5.2022 whereas the deceased commenced his journey 08.30 PM. As per the prevalent Railway Rules, the said ticket was valid only for three hours whereas the deceased commenced his journey beyond three hours. Hence, the said ticket was not valid at that time. In this regard, it is stated that the respondent Railway has a vast ticket checking machinery and the deceased could have been charged for the same. Hence, merely on this basis the deceased cannot be termed as an unauthorized passenger at the relevant time.
25. It has been pleaded by the respondent Railway that the death of the deceased did not happen as a result of an untoward incident but due to his own criminal act. To substantiate this plea, the respondent Railway has not adduced any evidence to show that the deceased was hit by some train either by coming in front of the engine or from the side of the train. Here it is pertinent to state that since it was night time, the possibility of not coming to this incident

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in the knowledge of the fellow coach passengers, in my considered view, cannot be ruled out.

26. Therefore, 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 discharged the burden of proof prima facie shifted upon it to prove that the deceased at the material time was not a bonafide passenger of the train in question and his death did not happen as a result of an untoward incident due to a fall from the passenger carrying train; or the present case is covered under exception (c) to the proviso to Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicants.

27. Therefore, in view of the facts and circumstances of the present case and law applicable thereon, it has been proved on record that the deceased was a bonafide passenger of the train in question and died due to said untoward incident as a result of accidental fall from the running train as defined in Section 123(c)(2) read with Section 124-A of the Railway Act 1989. Hence, both these issues are decided in favour of the applicant and against the respondent Railway.

Issue No.(iii)

28. In order to prove her identity, status and relation with the deceased, the applicant has relied upon her Aadhaar Card Exh. A/6 and her Family Ration Card Exh. A/7. The applicant

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has further placed on record the Ration Card of the deceased Exh. A/8. There is nothing on record to disbelieve the said evidence of the applicant to establish her relation with the deceased and her identity. The applicant being widow mother of the deceased is dependent of the deceased as defined under Section 123 (b) (i) of the Railway Act 1989. Hence this issue is also decided in favor of the applicant and against the respondent Railway.

Issue No. (iv)

29. This case pertains to an untoward incident occurred after amendment of the Railway Accidents and Untoward Incidents (Compensation) Rules 1990 vide G.S.R No. 1165(E) dated 22.12.2016 which is applicable with effect from 01.01.2017 and hence, the applicant is entitled for an amount of Rs. 8,00,000/- (Rupees eight lakh only).
30. The applicant, under Part-I of the Schedule of the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990, as amended in 1997 and 2016, is entitled to an amount of Rs.8,00,000/- as compensation on account of the death of her unmarried son in an untoward incident. This issue is also decided in favour of the applicant and against the respondent Railway.
31. Therefore, in view of the above, the original application deserves to be allowed with the following order:

O R D E R

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- A. The applicant is entitled for an amount of Rs.8,00,000/-(Rupees eight lakh only) as compensation along with interest @ 9% per annum from the date of incident i.e. 10.5.2022 till the date of award.
- B. The respondent Railway Administration is hereby directed to deposit the amount awarded with the Additional Registrar of this Tribunal within a period of 30 days from the date of receipt of the copy of the judgment failing which the applicant shall also be entitled to receive interest @ 9% per annum from the date of judgment till the actual date of depositing the amount with the Additional Registrar.
- C. The applicant is permitted to withdraw 10% of the amount awarded to her from the total amount of Rs.8,00,000/- i.e. Rs.80,000/- (Rupees eighty thousand only).
- D. The balance amount of Rs.7,20,000/-(Rupees seven lakh twenty thousand only) along with whole amount of interest payable to applicant shall be kept in Fixed Deposit for a period of three years in any Nationalized Bank.
- E. The applicant is hereby directed to submit the details of her Aadhaar linked Bank account of a Nationalized Bank situated nearest to her place of residence to the Additional Registrar of this Tribunal.

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- F. The Bank shall not permit any joint name(s) to be added in the saving bank account or fixed deposit account of the applicant i.e. her Saving Bank Account shall be an individual Saving Bank Account and not a Joint Account.
- G. The monthly interest accrued on the amount of the fixed deposit be credited by Electronic Clearing System (ECS) in the said Saving Bank Account of the applicant.
- H. The maturity amount of the FDR will be credited by Electronic Clearing System (ECS) in the Saving Bank Account of the applicant.
- I. No loan, advance, withdrawal, or premature payment be allowed on the fixed deposit without permission of the Tribunal.
- J. 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, the Bank shall cancel the same before the disbursement of the award amount.
- K. The Bank shall freeze the account of the applicant so that no debit card be issued in respect of her account. 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

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issued or will be issued without the permission of the Tribunal and the applicant shall produce the passbooks with the necessary endorsement duly signed and stamped by the Bank before the Additional Registrar of this Tribunal.

- L. The Bank is further directed to permit the applicant to withdraw money from her Saving Bank Account by means of a withdrawal form only.
- M. The Respondent Railway Administration is also directed to place on record the proof of deposit of the award amount with up to date interest, if any along with a calculation sheet and the same shall be filed with the Additional Registrar.
- N. Registry is directed to send a free certified copy of this judgment directly to the applicant at her postal address mentioned in the claim application by Speed Post in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

Pronounced in open Court

Date: 13.08.2024

Labh Singh
Member (Judicial)

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**(The Judgment has been dictated in open Court and consists
seventeen pages and each page has been checked and signed by
me)**

Labh Singh
Member (Judicial)