

OA/IIU/JP/94/2022

BEFORE THE RAILWAY CLAIMS TRIBUNAL, JAIPUR BENCH,
JAIPUR

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

Original Application: OA/IIu/JP/94/2022

Date of Filing: 19.10.2022

Judgment reserved on: 28.8.2024

Judgment pronounced on: 29.8.2024

1. Rajkumari W/o Late Sh. Krishan Kumar alias Natholi alias Nathooli aged about 29 years.
 2. Shivani Daughter of Late Sh. Krishan Kumar alias Natholi alias Nathooli aged about 08 years.
 3. Virat Son of Late Sh. Krishan Kumar alias Natholi alias Nathooli aged about 06 years.
 4. Nikhil Son of Late Sh. Krishan Kumar alias Natholi alias Nathooli aged about 02 years.
- Applicant No. 2 to 4 are minor, their natural guardian their mother Smt. Rajkumari wife of Late Sh. Krishan Kumar.
5. Mohar Singh Son of Late Shivrulal aged about 59 years.

Applicants

Versus

Union of India represented by the General Manager, North Central Railway, Prayagraj.

Respondent

Present:

For the applicant: Mrs. Namrata Sharma Learned Advocate

For the respondent: Mr. Khem Chand Sharma Learned Advocate

J U D G M E N T

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LABH SINGH, MEMBER(JUDICIAL)

1. The present claim petition has been filed by the applicants, claiming themselves to be wife, daughter, sons, and father of the deceased respectively, under Section 16 of the Railway Claim Tribunal Act 1987 read with Section 124-A of the Railways Act 1989 seeking compensation for an amount of Rs. 8,00,000/-(Rupees Eight lakh Only) alongwith interest and cost thereon for the death of Krishan Kumar arising out of untoward accident.
2. Briefly stated the facts of the case are that on 17.4.2019, Sh. Narayan Das Gangman No.48 Railway Station Mania issued a Memo to SHO Police Station Mania Dholpur reporting therein that one dead body of an unknown person is lying on Up railway track in between Mangrol Bridge and Mania Section at Kilometer no. 1304/11 and requested the police to take necessary action. Consequent upon the receipt of the information, the Civil Police Mania registered a case UD No. 7/2019. Thereafter, the Police initiated Inquest proceedings and after postmortem, handed over the dead body to the family members for performing the last rites of the deceased.
3. The case of the applicants is that on 16.4.2019, the deceased was travelling from Panipat to Bhondiya on railway journey ticket bearing no. 74785077 and died due to falling down from the running train in between Mangrol Bridge and

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Mania Section. The original railway journey ticket is in custody of Civil Police and the photocopy of the same is being filed with the present original application.

4. It has further been pleaded that the dead body of the deceased was noticed on 17.4.2019 by Sh. Narayan Das Gangman No. 48 who informed SHO Mania to take further necessary action. Thereafter, the police registered Case UD No. 7/2019 dated 17.4.2019 and after postmortem, the dead body was handed over to the family members. The police also prepared Panchnama and during Panchanama, the railway journey ticket bearing No. 74785077 was found from the pocket of the trouser of the deceased. The deceased had died due to falling down from the running train which is an untoward incident. The applicants are also relying upon certified copy of documents annexure A-1 to A-25.
5. The applicants being dependents of the deceased are entitled to seek compensation from respondent railway. The applicants have not claimed or obtained any compensation in relation to the incident in question. Therefore, the present original application requires to be allowed.
6. Respondent railway appeared in pursuance of notice issued by this Tribunal and filed its written statement alongwith the DRM report replying therein that the matter was investigated by the Enquiry Officer RPF; and during enquiry, it could not be found as to how the incident in question happened with

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the deceased. The railway journey ticket was verified and upon verification, the detail of the journey could not be ascertained.

7. It has further been replied that there is no eyewitness to the journey of the deceased. The village of the deceased is near the place of incident and the deceased has been found to be run over by some train. Therefore, the deceased was not a bonafide passenger of the train.
8. It has further been replied that the Civil Police conducted the search of the dead body and during search, no article or ticket was found with the deceased whereas a railway journey ticket bearing No. 74785077 has been claimed to be found in Panchnama. It proves that the ticket has been managed by the applicants to get compensation from the respondent railway. The present original application requires to be dismissed.
9. On merits, while denying of the averments of the original claim application as made by the applicants either being wrong or want of knowledge and reiterating the facts pleaded in the preliminary objection, a prayer has been made for dismissal of the claim application with merits with costs.
10. Based on pleading of the parties, the following issues were framed by the Tribunal vide order dated 28.4.2023 for adjudication: -

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- (i) Whether the deceased was travelling on a valid railway journey ticket and was a bonafide passenger of the train at the time of relevant time?
 - (ii) Whether the deceased met with an untoward incident due to fall from the passengers carrying train, suffered injuries and died as a result thereof and if the present case is covered under the definition of Section 123(c)(2) read with Section 124-A of the Railways Act 1989?
 - (iii) Whether the applicants are only dependents of the deceased and are entitled to compensation as claimed under Part VII of the claim application?
 - (iv) Relief, if any, to which the applicants are entitled?
11. The applicant No. 1, in order to prove her case, examined herself as AW/1 by filing her affidavit of evidence Exh. AW-1/1 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 in her documentary evidence documents Exh. A/01 to Exh. A/25.
12. Respondent Railway, in its oral evidence, examined Sh. Ajay Pal Singh ASI RPF Force as RW-1 who filed his affidavit of evidence Exh. RW1/1 in his examination in chief. He was duly cross examined by Learned Counsel for applicant. Respondent Railway further examined Sh. Narayan Das Gangman as RW-2 who

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also filed his affidavit of evidence Exh. RW 2/1 and he was duly cross-examined by learned counsel for the applicant.

13. Respondent railway has filed its certified DRM report Exh-R/01 alongwith annexure which is already placed on record. The Respondent Railway has also filed an investigation report of the Enquiry Officer, Railway Protection Force which is part of the DRM report.
14. 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)

15. Before entering upon discussion on these issues, it is pertinent to mention here that there is no railway station or halt in village Bhondiya. The nearest railway station to Village Bhondiya is Mania and the dead body was found lying in between Mangrol Bridge and Mania Railway Sections. It is also crystal clear from the ticket Exh. A/17 relied upon by the applicants that the destination station is not visible.
16. The case of the applicants is that the deceased was traveling from Panipat to Bhondiya on railway journey ticket bearing No. 74785077 dated 16.4.2019 Exh. A-17. It has

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further been claimed that the railway journey ticket Exh. A-17 was found during Panchanama proceedings. It has further been claimed that the deceased died due to falling down from the running train.

17. The applicant no. 1, while appearing as AW-1 filed her affidavit of evidence Exh. AW-1/1 in her examination-in-chief and reiterated the facts pleaded in the original application. She further stated that the police conducted panchnama proceedings on 18.04.2019 and recovered the railway journey ticket from the pocket of the deceased. The applicant no. 1 has further relied upon panchnama report Exh. A/04. A perusal of Panchnama report Exh. A/04 reveals that the railway journey ticket bearing No. 74785077 has been shown to be found in the pocket of a blue color trouser of the deceased.
18. The applicant no. 1, during her cross-examination, admitted that her affidavit of evidence is based on hearsay evidence. It has further been admitted by her that she is not aware about the run over of the deceased. Thus, it is an admitted fact on the part of the applicant no. 1 that she has no personal knowledge about the journey of the deceased by train. Even the complete details of the journey including destination railway station has not been provided in the original application.

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19. Though the applicants have failed to prove on record the destination railway station of the deceased on railway journey ticket Exh. A/17; however, Respondent Railway, has confirmed that the railway journey ticket was issued from the booking office of railway station Panipat. Since the detail of the journey of the deceased are not visible on the ticket and also not provided by the Chief Booking Supervisor and accordingly, the Tribunal vide order dated 27.8.2024, directed the respondent railway to get the detail of railway journey ticket verified from PRIME ID issued to Claim Office of North-Central Railway Prayagraj; and upon verification, it was found that the ticket was issued on 16.4.2019 at 7:14 hours for travelling of one adult passenger from Panipat to Dholpur. Thus, it has been established on record that the railway journey ticket was issued on 16.04.2019 for travelling of one adult passenger from Panipat to Dholpur by any Superfast train.
20. The question remains to be decided is whether the deceased was travelling on the said railway journey ticket Exh. A/17 and the same is related to the incident in question. It is pertinent to note that there is no whisper about any railway journey ticket in case UD No. 07 of 2019 Exh. A/02 which was registered on 17.4.2019 at 12:47 hours. Sh. Mehar Singh the father of the deceased submitted application Exh. A/03 to SHO Police Mania stating therein that in the evening of

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17.4.2019, they enquired about the deceased and came to know from Civil Police about lying a dead body on railway line and identified the deceased in the mortuary of hospital. The Investigating Officer, Civil Police, prepared inquest panchnama on 18.4.2019 at 09:30 am wherein for the first time it has been recorded that a railway journey ticket bearing no. 74785077 was found from the pocket of a blue color trouser of the deceased.

21. Respondent Railway has filed a certified copy of DRM report wherein a certified copy of Rapat Roznamcha No. 19 dated 17.4.2019 (Exh. R/02) prepared by RPF Force in its official duty has been annexed. As per Rapat Roznamcha Exh. R/02, Sh. Udai Veer Singh, Sub Inspector, RPF Force alongwith Sh. Shiv Singh ASI RPF Force, upon receipt of information about the incident from DSCR, Agra, proceeded to the place of incident on 17.4.2019 at 9:30 hours and reached there at 10:40 hours. Sh. Mukesh Kumar, Head Constable, Civil Police Mania was already present at the place of incident. It has categorically been recorded in the Rapat Roznamcha Exh. R/02 that the Police searched the dead body but no article, cloth, cash or ticket was found with the deceased. The RPF Force, after visiting the place of incident, returned to RPF Post at 16:05 hours as per entry no. 28 of Rapat Roznamcha.
22. Insofar as relevancy and admissibility of Rapat Roznamcha Exh. R/02 is concerned, it is an entry made by the RPF Force

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in official record as per the relevant Rules. The certified copy of Rapat Roznamcha Exh. R/02 has been prepared by RPF officials and has been certified to be true as per original record. The presumption of truth is attached under section 191 of the Railways Act 1989 to this record prepared by RPF Force in discharge of its official duty. It would be relevant to produce the relevant provision of Section 191 of the Railways Act 1989 and the same is as under:

“Entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession”.

23. It is further pertinent to mention that Sh. Ajay Pal Singh, the Enquiry Officer prepared Form No. 2 (Exh. R/03) as per the provision of Rule 6 of the Railway Passengers (Manner of Investigation of Untoward Incident) Rules 2020 though Rule 6

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was not applicable on the date of incident in question. Consequently, Sh. Ajay Pal Singh, the Enquiry Officer was further examined to clarify the issue. He appeared for further examination and clarified that the column no. 20 of Form No. 2 Exh. (R/3) has been filled on the basis of information gathered from papers collected during enquiry. He further clarified that Form No. 2 (Exh. R/03) was prepared on 26.12.2022 after the matter was handed over to him for investigation and not on the date of incident. Therefore, no reliance could be placed on this documents Exh. R/03 which has been prepared violating the mandatory provision of the then Railway Passengers (Manner of Investigation of Untoward Incidents) Rules 2003 as amended in the year 2007 as applicable on the date of incident in question.

24. Thus, the railway journey ticket Exh. A/17 was not found when Sh. Mukesh Kumar, Head Constable, Civil Police Mania searched the dead body at the place of incident in presence of RPF Officials. The railway journey ticket has been shown to be recovered on 18.04.2019 at the time of preparation of inquest panchnama; however, there is no seizure memo to prove the recovery of the railway journey ticket. The place of incident is situated near the village of the deceased which does not rule out the possibility of the deceased

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being hit by some unknown train while crossing the railway track.

25. Therefore, in view of the facts and circumstances of the present case and law applicable thereon, the applicants have failed to adduce any reliable oral or documentary evidence to justify the deceased as passenger of train on railway journey ticket Exh. A/17. Before an incident falls within the definition of untoward incident, it has to be proved that the victim was a passenger of any train as defined in Section 123(c) of the Railways Act 1989. Therefore, the incident in question does not fall within the definition of untoward incident as defined in Section 123(c)(2) read with Section 124-A of the Railway Act 1989. Hence, the issue no. (i) and (ii) are decided against the applicants and in favour of respondent railway.

Issue No.(iii)

26. In view of my finding on issue no. (i) & (ii) above, the discussion on this issue will be a redundant exercise and hence, this issue is relieved.

Issue No.(v)

27. In view of the facts and circumstances of the present case and the law applicable thereon, the present original claim application deserves to be dismissed being devoid of merits and accordingly dismissed with no order as to cost.

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Pronounced in open Court

Date: 29.08.2024

Labh Singh
Member (Judicial)

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

Labh Singh
Member (Judicial)