



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Claim Application No.: OA-II-98/2022

CORAM: Mr. Umesh Kumar Sharma, Hon'ble Member (Judicial).
Ms. Jhanja Tripathy, Hon'ble Member (Technical).

Date of Registration: 15.11.2022
Date of Judgment: 01.04.2024

1. Smt. Rasheeda Bee wife of Late Shri Gafur Qureshi alias Gafur Bhai, aged about 72 years.
2. Mohammed Salim son of Late Gafur Qureshi alias Gafur Bhai, aged about 52 years.
3. Sattar Qureshi son of Late Shri Gafur Qureshi alias Gafur Bhai, aged about 45 years.

All are residents of 188, Pijara Mohalla, Bhanpura, District Mandsoore (Madhya Pradesh).

4. Smt. Shahanaaj Bano married daughter of Late Shri Gafur Qureshi alias Gafur Bhai, wife of Shri Mohammed Khan, aged about 47 years resident of Indra Awas, Kheemuch, District Kota (Rajasthan).

.....Applicants

Versus

Union of India through the General Manager, West Central Railway, Jabalpur (Madhya Pradesh).

....Respondent

Claim for Rs.12,00,000/- along with interest

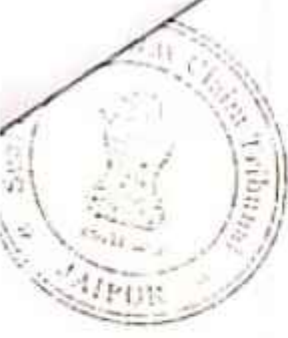
PRESENT

Mr. Manmohan Gupta, learned counsel for the applicants
Mr. Vivek Chaudhary, learned counsel for the respondent.

JUDGMENT

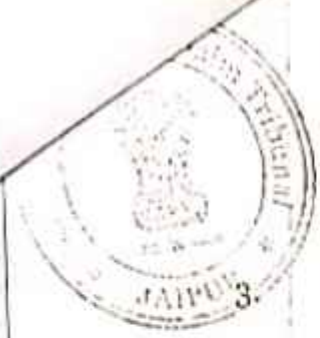
Per Ms. Jhanja Tripathy, Member (T.),

1. This claim application has been filed before this Tribunal by the wife, sons and married daughter 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.12,00,000/- along with interest on account of death of Shri Gafur Qureshi alias Gafur Bhai in an alleged untoward incident.

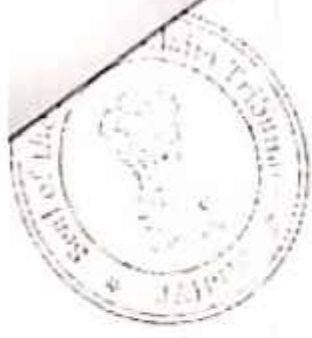
2. In brief, it has been averred in the claim application that on 04.4.2022 Shri Gafur Qureshi alias Gafur Bhai along with his grandson namely Shri Imran commenced their journey from Kota Junction to Ramganj Mandi by Train No.19104 holding a valid second class railway journey ticket bearing No.ALA-76375629, valid for two adults. During journey, when the said train took its scheduled halt at Modak railway station, Shri Gafur Qureshi alias Gafur Bhai got down from the train to drink water and after doing so when he was boarding the train, the train suddenly started moving as a result thereof he lost his balance and accidentally fell down between the train and face of the platform. Due to fall from the moving, he suffered multiple grievous injuries. On seeing this, the Guard stopped the train and pulled out Shri Gafur Qureshi alias Gafur Bhai from there. Later, he was shifted to the Community Health Centre, Modak from where after administering him first-aid, he was referred to SRG Hospital, Jhalawar by 108 Ambulance Service. The injuries suffered by him ultimately proved fatal and he died as a result thereof. It has further been averred in the claim application, that on receipt of the information about death of Shri Gafur Qureshi alias Gafur Bhai, the Government Railway Police, Kota registered a Marg Report bearing No.12/2022 dated 04.4.2022 under Section 174 Cr.P.C. in the night of 04.4.2022. Further, on 05.4.2022, the Police after completion of certain requisite formalities including postmortem on the dead body, handed it over to the family members for final rituals. It has been stated by the applicants that the relevant railway journey ticket on which Shri Gafur Qureshi alias Gafur Bhai and his grandson Shri Imran, were performing their aforesaid journey, was seized by the Police after



recovery from the person of the dead body and deceased Shri Gafur Qureshi alias Gafur Bhai was a bonafide passenger of the train in question at the relevant time.

To strengthen their claim, the applicants have made available on record the copies of the Marg Report, Fard Panchayatnama, Fard Jabti railway journey ticket, Fard Supurdagi Laash, Aadhaar Cards, Family Ration Card 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 denying all the averments made in the claim application by the applicants. It has been pleaded on behalf of the respondent Railway Administration that during search at the site of incident, no ticket was found with the injured now deceased. The ticket claimed to have been seized by the Police after recovery from the dead body, was managed subsequently. Hence, the deceased was not a bonafide passenger at the relevant time. As per the Guard of the train in question, the deceased met with this incident in the process of boarding the moving train. Hence, the alleged incident took place due to negligence of the deceased himself 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 sought by 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 03.2.2023:



- 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 a 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 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) *Amount of relief, if admissible?*
6. In the evidence, applicant No.1 Smt. Rasheeda Bee 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/11. Besides, examination-in-chief on affidavit of Shri Imran, co-traveller with the deceased, has also been filed on behalf of the applicants. They were cross-examined by learned counsel for the respondent Railway Administration on 5.7.2023.
7. The respondents Railway Administration in its evidence, has filed examination-in-chief on affidavit of Shri Ravi Agrawal, Guard of the train in question along with certified copies of extracts of Guard's Rough Journal and ACP Memo as Ex.R/1-1 to R/1-2. He was cross-examined by learned counsel for the applicants on 26.10.2023. -

FINDINGS

8. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them, case laws filed by the learned counsel for the applicants 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 are being taken up and decided together.

10.

Applicant No.1 Rasheeda Bee has deposed by way of her affidavit that on 04.4.2022 her husband Shri Gafur Qureshi alias Gafur Bhai along with his grandson namely Shri Imran were travelling from Kota Junction to Ramganj Mandi by Train No.19104 holding a valid second class railway journey ticket bearing No.ALA-76375629, valid for two adults. During journey, when the said train reached Modak railway station her husband Shri Gafur Qureshi alias Gafur Bhai got down from the train to drink after and after doing so when he was boarding the train, the train suddenly started moving as a result thereof he lost his balance and accidentally fell down between the train and face of the platform. Due to fall from the moving, he suffered multiple grievous injuries. Subsequent to his fall from the moving train, the said train stopped at Modak railway station and her husband was pulled out underneath the train. Later, he was shifted to Community Health Centre, Modak from where after administering him first-aid, he was referred to the SRG Hospital, Jhalawar by 108 Ambulance Service but his life could not be saved and he died on reaching the Hospital. It has further been deposed by her that on receipt of the information about death of Shri Gafur Qureshi alias Gafur Bhai, the Government Railway Police, Kota registered a Marg Report bearing No.12/2022 dated 04.4.2022 under Section 174 Cr.P.C. in the night of 04.4.2022. Further, on 05.4.2022, the Police after completion of certain requisite formalities including postmortem on the dead body, handed it over to the family members for final rituals. She has also deposed that the relevant railway journey ticket on which her husband Shri Gafur Qureshi and his grandson Shri Imran, were performing their aforesaid journey, was kept by the Police in its custody and deceased Shri Gafur Qureshi alias Gafur Bhai was a bonafide passenger of the train in question at the relevant time. During cross-



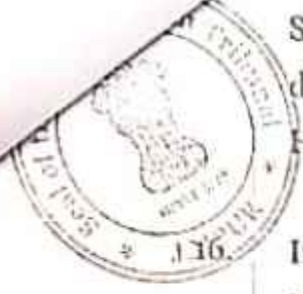
examination nothing contradictory has come out. Applicants' witness Shri Imran has also deposed the same facts by way of his affidavit and during his cross-examination also, nothing contradictory has come out which could lead us to doubt the testimony of this witness of the applicants. Applicant No.1 Smt. Rasheeda Bee got the documents exhibited as A/1 to A/11 filed along with the claim application.

11. *Per contra*, learned counsel for the respondent has argued that deceased was not a bonafide passenger of the alleged train at the relevant time within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 as no ticket was recovered from his possession during search. The ticket claimed to have been seized by the Police, was managed subsequently. He has further argued that the death of Shri Gafur Qureshi alias Gafur Bhai happened due to his own negligence as he was attempting to board the moving train and, therefore, the alleged incident is not covered under the definition of untoward incident as defined under Section 123 (c) (2) of the Railways Act, 1989 but 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 corroborated with the testimony of the witness 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.
12. We have carefully heard the submission made by both the parties and also perused the material made available on record by them.
13. Ex.A/3 is the certified copy of Fard Jabti and perusal of the same reveals that the aforesaid ticket was seized by the Police from the person of the dead body. Besides, the original DRM's Report filed by the respondent Railway Administration along with the written statement, also admits the fact that deceased at the material time,



was a bonafide passenger of the said train at the time of occurrence of the incident. The respondent Railway Administration to substantiate its plea that the ticket claimed to have been seized by the Police, was managed subsequently, has not adduced any evidence. Hence, a mere plea without supported by any cogent or reliable evidence, in our considered view, is not sufficient to draw an adverse inference.

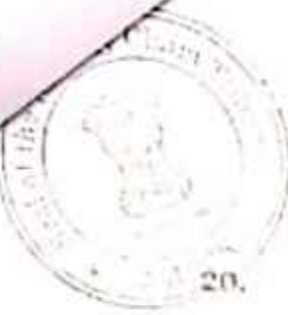
14. Witness of the respondent Railway Administration Shri Ravi Agrawal has deposed by way of his affidavit that on 4.4.2022 he was working as Guard on Train No.19104 and during his working when the said train departed from the Modak railway station, when he saw a person came running, he informed the Loco Pilot to stop the train. The Loco Pilot stopped the train but by that time, the said person in the process of boarding the moving train, fell down between the train and face of the platform. Further, the railway officials with the help of other passengers pulled out the said person from there. In the meantime, the Station Master, Modak told him that he called the 108 Ambulance Service and he can move the train. He has further deposed that when the train was started moving, alarm chain was pulled by the co-traveller of the injured to take the luggage. During cross-examination, he has stated that his statements were recorded by the GRP in the month May, 2022 and by the RPF in the month of December, 2022. It is true that the fact that the said person was came running, is not mentioned in the Guard's Rough Journal and in the Memo of ACP given by him to the concerned railway official.
15. Ex.R/1 is the certified copy of extract of Guard's Rough Journal and on perusal of the same, it is found that a remark regarding falling down of a passenger, is mentioned therein. The certified copy of Memo issued by the Station Superintendent, Jhalawar addressed to the GRP is available at Page-67 of the DRM's Report and it has been mentioned therein that it was informed by the Station



Superintendent, Modak on Auto Phone that a person has fallen down from Train No.19104. The said person has been sent to the Hospital. Please do the needful.

In view of the entry made in the Guard's Rough Journal and the Memo issued by the Station Superintendent, Jhalawar, the testimony of the witness of the respondent Railway Administration cannot be taken into consideration being contradictory as he himself mentioned in the Guard's Rough Journal that a person has fallen down from the train. He has nowhere mentioned that the said person fell down from the train in the process of boarding the moving train.

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 no fault liability or 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, our discussions in foregoing paras and looking at the facts and circumstances of the case, it is held that the deceased at the relevant time was a bonafide passenger of the train in question within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 and his death happened as a result of injuries suffered by him in 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 Railway Administration.

Issue No.3 & 4:

20. Both these issues are being taken up and decided together.
21. Case in hand has been filed before this Tribunal by the wife, sons and married daughter of the deceased being the only dependants. Applicant No.1 Smt. Rasheeda Bee vide Para-5 of her affidavit, has deposed by way of her affidavit that present applicants are the sole dependants of the deceased. The parents of the deceased are not alive. During cross-examination nothing contradictory has come out. To prove their dependence, true copies of the Aadhaar Cards and Family Ration Card have been filed by the applicants as Ex.A/5 to A/11 respectively. On the contrary, no evidence whatsoever has been adduced on behalf of the respondent Railway Administration to rebut the case of the applicants on the point of their dependence. 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 applicant being the only dependants of the deceased within the meaning of Section 123 (b) (i) of the Railways Act, 1989, are entitled to get an amount of Rs.3,00,000/- 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. 04.4.2022 till the date of award. Both these issues are decided accordingly.

ORDER

23. The claim application is allowed in favour of the applicants. 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. 04.4.2022 till the date of award.
24. The payment shall be made to the applicants 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 Nationalized Bank and the amount to be credited to their SB Account
Smt. Rasheeda Bee (wife of the deceased)	Rs.50,000/- (Rs. fifty thousand only) along with proportionate interest.	Rs.4,50,000/- (Rupees four lakh fifty 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.
Mohammed Salim (son of the deceased)	Rs.10,000/- (Rs. ten thousand only) along with proportionate interest.	Rs.90,000/- (Rupees ninety 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.
Sattar Qureshi (son of the deceased)	Rs.10,000/- (Rs. ten thousand only) along with proportionate interest.	Rs.90,000/- (Rupees ninety 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.



<i>Smt. Shahanj Bano (daughter of the deceased)</i>	<i>Rs.10,000/- (Rs. ten thousand only) along with proportionate interest.</i>	<i>Rs.90,000/- (Rupees ninety 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.</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 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 are hereby directed to submit the details of their Aadhaar linked Bank accounts of a Nationalized Bank situated nearest to her 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 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.
29. No loan, advance, withdrawal, or pre-mature discharge 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. 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 so that no debit card be issued in respect of the account from any other Branch of the Bank.

31. The Bank shall make an endorsement on the passbooks of the applicants 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 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 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. **01.04.2024.**

(Umesh Kumar Sharma)
Member (Judicial)
RCT/Jaipur

(Jhanya Tripathy)
Member (Technical)
RCT/Jaipur