

रेल दावा अधिकरण, कोलकाता पीठ के समक्ष
BEFORE RAILWAY CLAIMS TRIBUNAL, KOLKATA

Claim Application No. OA(IIU)/KOL/0069/2025

Coram:- Shri Sanjay Singh Gehlot, Vice Chairman

In the matter of :-

1. Rahul Biswas, father of the victim.
2. Sabita Biswas, mother of the victim.

both residing at Jaguli, Ghetugachi,
Dist. - Nadia, West Bengal, PIN - 741222. Applicants.

-VS-

Union of India represented through
The General Manager, Eastern Railway, Kolkata. Respondent.

Claim for Rs. 8,00,000/-

Present : Mr. N. Mittal, Ld. Counsel for the applicant.

Smt. Sabnam De, Ld. Counsel for the Respondent.

Date of filing : 19.05.2025

Date of Judgment : 23.12.2025

J U D G E M E N T:

1. This is an application under Section 16 of the Railway Claims Tribunal Act which was filed by the applicants praying for compensation for themselves on account of death of the victim, Roni Biswas in an alleged Untoward Incident.

2. As per averments made in the claim application that on 10.10.2024 the victim along with his friends Suman Mallick, Akash Manjhi and Sagar was travelling by Down Ranaghat Sealdah local from Simurali to Naihati with valid railway journey tickets bearing No. 33722739 (One ticket for 02 persons) and 33722740 (One ticket for 02 persons). During the course of working a railway the victim accidentally fell down from the running train on the Platform No.2 of Naihati railway station and sustained grievous injury. After the incident the victim was taken to Naihati State General Hospital and from there the victim was referred to Kalyani JNM hospital where the victim died on 11.10.2024. The applicants have filed original railway journey tickets along with a photo copy of

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one railway journey ticket in this case. One Police case under U. D. Case No.568/24 dated 11.10.2024 was registered at Kalyani P. S. The Post Mortem Examination was done at JNM Hospital, Kalyani. The Applicant prayed for compensation to the tune of Rs.8,00,000/- along with cost and interest.

3. The Respondent Railway has filed a written reply denying the admissibility of the claim for compensation filed by the applicant.

4. Upon the pleadings of both sides, issues were framed on 05.09.2025 which are recast as follows :-

Issues :-

1. Whether the incident on account of which the victim was alleged to have died can be termed as an Untoward Incident, within the provision of Section 123(c) (2) of the Railways Act?
2. Whether the victim was a bonafide railway passenger of a train on the date of the alleged incident ?
3. Whether the applicant is the dependent of the deceased and is entitled to get compensation, as prayed for ?
4. Relief, if any ?

5. To prove the case, the applicant, Rahul Biswas filed an Affidavit and gave evidence under oath. He was examined and cross-examined as AW/1 on 18.12.2025. The applicants also examined one Akash Majhi as AW/2 on 18.12.2025. The applicants filed some documents which included an affidavit of evidence of Rahul Biswas (Exbt.AW/01) and copies of Aadhar Card of Rahul Biswas (Exbt. A/02), Aadhar Card of Sabita Biswas (Exbt. A/03), Aadhar Card of Roni Biswas (Exbt.A/04), one original railway journey ticket bearing No. 33722739 (Exbt.A/05), FIR (Exbt.A/06), Final police Report (Exbt.A/07), Surothal Report (Exbt.A/08), P. M. Report (Exbt.A/9), Affidavit of Akash Majhi (Exbt.AW/2/1) and Aadhar Card of Akash Majhi (Exbt.A/2/2). The respondent railway has filed DRM's report which is marked as Exbt. R/1 (collectively). Heard arguments advanced by both sides and perused the documents on record.

DECISION WITH REASONS

6. Issue No.1 & 2 :

6.1. These two issues are taken up together as they are interlinked.

6.2. The applicant, Rahul Biswas got himself examined as AW/1 on 18.12.2025 and during cross-examination, he admitted that he was not the eye-witness of this incident and he did not see his son either purchasing a railway journey ticket or boarding the train or falling down from the train on the fateful date of incident. Therefore, the AW/1 was not the eye-witness of this incident and all his evidence was hearsay and I am not inclined to act upon the version of AW/1. The applicants have also examined one Akash Majhi as AW/2 on 18.12.2025 and during cross-examination, the AW/2 claimed himself as a co-passenger and he also stated that he saw the incident with his own eyes. During evidence, the AW/2 gave every tit bit regarding the incident and he was able to explain their journey by train on the fateful date of incident and the chronology of the incident which occurred in the railway premises. During evidence, the AW/2 maintained his stand over this incident. The evidence of the AW/2 could not be demolished by the respondent railway. Therefore, I do not have any reason to disbelieve the version of the AW/2 as a co-passenger in this case as his evidence corroborated the claim of the applicants.

6.3 Ld. Counsel for the applicant argued that if the Court went through the evidence of AW/1 & AW/2, Investigation Report, medical report and the other documentary evidence, the Court would have no hesitation to come to a conclusion that the victim died because of a railway accident. It was further stated that the incident was corroborated by the investigation report of the Investigating Authority. Bona fides of the victim were amply proved by way of recovery of Railway Journey ticket from the possession of the victim and the original railway journey ticket has been filed in this case. As such, the incident

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was well proved as an Untoward Incident and the applicants were entitled to get compensation.

6.4. On the other hand, the Respondent Railway argued that the incident occurred due to carelessness and negligent manner of the victim and no cogent evidence was furnished by the applicants in support of their claim and as such it was not a case of Untoward Incident and the applicant was not entitled to claim any compensation.

6.5. Considered the rival submissions of both the parties. It is the admitted position that it was the duty of the applicant to prove that the victim fell down from the running train while travelling by the same and for that purpose the applicant filed certain documents which were exhibited. The FIR was lodged on the basis of a hospital memo of JNM Hospital, Kalyani wherein it has been stated the history of the incident was 'RTA'. The Surothal Report (Exbt. A/08) stated that the victim fell down from the train and died thereof. After thorough investigation, Final Police Report (Exbt.A/7) was prepared wherein it has been stated that the history of the incident was 'fell down from train'. The hospital document of Naihati State General Hospital (Exbt.R/1 collectively) states the history of the incident was '*fall from running train and head injury.*' The FIR and the Hospital document of Naihati State General Hospital were first hand documents and there was little scope to distort the matter and therefore, I am inclined to give credence to the contents of the FIR and the hospital document. The 'DAR' (Exbt.R/1 collectively) which is a part of DRM's report states that '*one unknown male person aged about 20 to 25 years fell down from DN Ranaghat – Sealdah local train.*' The Roznamcha (Exbt.R/1 collectively) stated that '*Roni Biswas got hit with a pillar by the side of the railway track and fell down from the train at Yard.*' Moreover, the 'Call Details Record' of the victim's mobile phone corroborated the case of the applicant. The DRM's report (Exbt.R/1 collectively) admitted the incident and it has been stated therein that

“While the train was approaching Naihati Railway Station, Roni Biswas (the deceased person) hit with electric pole and fell from the running train and received injury.”

6.6. In view of the above, the documentary evidence & circumstantial evidence proved that the victim was travelling by train on the fateful date of the incident and he fell down from the train and died thereof. Moreover, the residence of the victim is far away from the place of occurrence. The incident took place at a location where there was no reason for the victim to be present but for the fact that he was travelling in a train which passed through the place of occurrence of the incident. No contra-evidence has been filed by the respondent to disprove the claim of the applicant. Therefore, circumstantial evidence like the opinion of police, Investigation Report and the version of the hospital documents proved that the deceased died as a result of injuries sustained due to fall from running train which supported the averments contained in the claim application that the victim died due to a fall from a train. This case could not be brought within any exception under (a) to (e) under Section 124A of the Railways Act which could exempt the respondent railway from paying compensation. As per the principle laid down by the Hon’ble Supreme Court in its Judgement in the cases of Union of India –vs- Prabhakaran Vijaya Kumar & others and Jameela & others – vs- Union of India (2010) where the Hon’ble Supreme Court has held that the liability of the Railways is a strict liability and if a case comes within the purview of Section 124-A, it is wholly irrelevant as to who was at fault. Therefore, it could be safely stated that it was an ‘Untoward Incident’ during working of the railway and as such, this incident comes under the purview of Section 124A of the Railways Act, 1989.

6.7. The applicants have stated that on the fateful date of the incident, the victim was travelling with a valid railway journey ticket bearing No.

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33722739 dated 10.10.2024, Ex. Simurali to Naihati Jn, (Exbt.A/05). The original railway journey ticket has been filed in this case. In the DRM's report (Exbt.R/1 collectively), the railway authority accepted the genuineness of the said ticket as it was verified and found to be genuine. No cogent evidence has been filed by the respondent railway to prove that the ticket was a forged one or the victim did not possess the said ticket during his journey. Moreover, other circumstantial evidence like the fact that the victim resided at a place far away from the place of occurrence point to the fact that he travelled by a train with a valid ticket. In view of the above, I am of the opinion that the deceased was a bona fide passenger. These two issues are decided in favour of the applicant.

7. Issue No. 3 :

7.1. As per Section 125 of the Railways Act, 1989, an application for compensation under Section 124 (or Section 124-A) may be made to the claims Tribunal by any dependent of the deceased and under Section 123(b) of the Railways Act, 1989 "Dependent" means any of the following relatives of the deceased passenger, namely :-

(i) the wife, husband, son and daughter, and in the case the deceased passenger is unmarried or is a minor, his parents.

7.2. In the claim application as well as in the Affidavit of evidence, the applicants have stated that the victim was unmarried and he has left behind his father, Rahul Biswas and mother, Sabita Biswas as dependents. I find that the applicants/dependents have proved their identity and relationship with the victim on the basis of sworn affidavit and documentary evidence. Therefore, I have no hesitation in holding that Rahul Biswas, father of the victim and Sabita Biswas, mother of the victim are the dependents of the victim and are entitled to get compensation. This issue is thus answered.

8. Issue No. 4 – Relief :

8.1. The applicant has claimed compensation of Rs.8,00,000/- which is allowed in this case.

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8.2 It is pertinent to mention here that in the Judgement passed in the case of **Special leave Petition (c) No. 19549 of 2024, Rajni and another -vs – UOI and another**, the Hon’ble Supreme Court held that “.....*the claim petition is allowed in part and the Respondents are directed to pay a compensation of Rs.8,00,000/- (Rupees eight lakhs) to the appellants – applicant within 8 (eight) weeks from the date of this order, failing which the amount awarded by this Court shall carry interest at the rate of 6% per annum from the date of Order of this Court till payment.*”

8.3. I am duty bound to obey the interpretation of the above mentioned judgement of Hon’ble Supreme Court wherein their Lordships did not allow any pendente lite interest. Therefore, the applicant is entitled to get Rs.8,00,000/- (Rupees eight lakhs only) as compensation. The respondent railway is directed to make payment within 08 (eight) weeks from the date of this order, failing which the decretal amount will carry simple interest @ 6% p.a. from the date of this order till payment. Hence, it is

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(i) That the claim application is hereby allowed for Rs.8,00,000/- (rupees eight lakh only). There is no order as to costs.

(ii) The decretal amount of Rs.8,00,000/- shall be shared among the applicants/dependents in the following proportion :

(a) Rahul Biswas, father of the victim. - Rs.4,00,000/- (Rupees four lakh only)

(b) Sabita Biswas, mother of the victim - Rs.4,00,000/- (Rupees four lakh only)

(iii) The respondent railway is directed to deposit the amount awarded in the suitor’s account of RCT/Kolkata within a period of 08 (eight) weeks from the date of this order, failing which the decretal amount will carry simple interest @ 6% p.a. from the date of this order till payment.

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(iv)(a) The applicant, Rahul Biswas, father of the victim, is permitted to withdraw 1/10th of the amount of compensation awarded to him. After withdrawal of 1/10th i.e. Rs.40,000/- balance amount of Rs.3,60,000/- shall be split into 36 Fixed deposits of Rs.10,000/- each and invested for a period of 1 to 36 months in the ascending order. The bank shall release the amount with accumulated interest upon maturity of each of these deposits to the credit of the Bank Account of Rahul Biswas, father of the victim.

(b) The applicant, Sabita Biswas, mother of the victim, is permitted to withdraw 1/10th of the amount of compensation awarded to her. After withdrawal of 1/10th i.e. Rs.40,000/- balance amount of Rs.3,60,000/- shall be split into 36 Fixed deposits of Rs.10,000/- each and invested for a period of 1 to 36 months in the ascending order. The bank shall release the amount with accumulated interest upon maturity of each of these deposits to the credit of the Bank Account of Sabita Biswas, mother of the victim.

(v) If the claimants are entitled to exemption of deduction of TDS, he/she shall submit Form 15G or Form 15H (for senior citizen) to the Presenting Officer of the respondent railway (as applicable under Sub-Section (2) of Section 19 of the Railway Claims Tribunal Act, 1987) so that no TDS is deducted.

(vi) That the claimants are directed to open an individual savings bank account in a nationalized bank near the place of his/her/their permanent residence. The bank is directed not to permit any joint name(s) to be added in the savings bank account or fixed deposit account of the claimant/claimants i.e. the savings bank account of the claimant/claimants shall be an individual savings bank account and not a joint account.

(vii) The concerned bank is directed not to issue any cheque book(s) and/or debit card(s) to the claimant(s). If the same have already been issued, the bank is directed to cancel the same before the disbursement of the award amount and the bank shall freeze the account to the claimant/claimants so that no debit

card is issued in respect of the account of the claimant/claimants from any other branch of the bank. The bank should make an endorsement on the pass book of the claimant/claimants to the effect that no cheque book and/or debit card shall be issued to the claimant/claimants without the permission of the Railway Claims Tribunal. The concerned bank of the claimant/claimants is directed to permit the claimant/claimants to withdraw money from his/her savings bank account by means of withdrawn form only. ***Digital transaction of compensation received under annuity schemes is strictly prohibited. The concerned Bank Account of the applicant/applicants shall not be transferred to another branch also during annuity period.*** The claimant is directed to produce the copy of the order passed by the Railway Claims Tribunal before the concerned bank whereupon the bank is directed to make an endorsement on the passbook.

(viii) The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR Number, FDR amount, date of maturity and maturity amount shall be furnished by the bank to the claimant/claimants. The monthly interest is to be credited by ECS in the savings bank account of the claimant/claimants near the place of his/her residence. The maturity amounts of the FDRs are credited by ECS in the savings bank account of the claimant/claimants near the place of his/her residence. The bank shall not grant any loan, advance, withdrawal or premature discharge on the fixed deposits without permission of the RCT. This account cannot be transferred to any other branch under circumstances.

(ix) Directions contained above are in conformity with the Ministry of Railways (Railway Board) Notification dated 03.06.2020 under GSR 347 (E) which has come into effect on 1st day of January 2020.

10. Accordingly, the claim application filed by the applicant stands disposed of.

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11. The Registry is directed to send the certified copy of this judgement directly to Rahul Biswas, father of the victim to his residential address.

12. The applicant/claimant will comply with the points as mentioned in the judgement above and in order No. 08 dated 23.12.2025.

(Sanjay Singh Gehlot)
Vice-Chairman

RAILWAY CLAIMS TRIBUNAL
Kolkata Bench

ORDER SHEET

Nature of application _____ Number O. A .(IIU)/KOL/2025/0069

Rahul Biswas and Sabita Biswas ___ vs ___ G.M./ Eastern Railway

Date	Proceedings of the Bench	Notes of Registrar
<p style="text-align: center;">08</p> <hr/> <p>23.12.2025</p>	<p>Record is put up for delivery of judgment.</p> <p>Judgment is written on separate sheets. It is ordered that the claim application be and the same is allowed on contest. No costs.</p> <p>The respondent railway is directed to deposit the amount awarded in the suitor's account of RCT/Kolkata within a period of 08 (eight) weeks from the date of this order, failing which the decretal amount will carry simple interest @ 6% p.a. from the date of this order till payment.</p> <p>After complete verification of the claimants, RCT office will release the payment to the claimants within 30 days from the date of verification of all documents or from the date of receipt of confirmation of payment received from the respondent railway whichever is later.</p> <p>The applicant will appear before the Registry/RCT/Kolkata along with the following :</p> <ol style="list-style-type: none">1. Bank Account details opened near their place of residence. Passbook must contain the necessary endorsement by the Branch Manager of the concerned Bank that "No cheque book and/or debit card has been issued". If it has already been issued, there should be endorsement that "cheque book and/or debit card has been cancelled and the same shall not be issued without the permission of the RCT". The endorsement must be signed and stamped by the bank official.2. Aadhar Card and PAN Card or any other appropriate ID Card.3. Two sets of photographs and specimen signatures of the claimants. <p style="text-align: center;">Let a free copy of this order be served to both sides.</p> <p style="text-align: right;">(Sanjay Singh Gehlot) Vice-Chairman</p>	