

**BEFORE THE RAILWAY CLAIMS TRIBUNAL
CHENNAI BENCH**

Present:

**Shri Vijayant Singh, Hon'ble Member (J)
Shri Prasanta Kumar Sahu, Hon'ble Member (T)**

OA (IL-UJ/14/2021)

(OA registered on 15.02.2021, heard & reserved on 23.01.2024 and
decided on 30.01.2024)

L. Ponnammal, w/o. Loganathan
(Mother of the deceased)
No.2/226, Ponniamman Koil Street
Periya Mathur Village, Madhavaram Taluk
Tiruvallur District, Chennai – 600 068
Versus

... Applicant

Union of India owning
Southern Railway represented by
General Manager, Chennai – 3

... Respondent

Mr. M. Dilli Babu, Ld. Counsel for the Applicants
Mr. Manzoor Alam, Chief Law Assistant for the Respondent

Claim for Rs.8,00,000/- with 12% interest per annum from date of application
till realization.

JUDGMENT

Vijayant Singh, Member (Judicial)

The case in hand has been preferred before this Tribunal by the applicants under Section 16 of the Railway Claims Tribunal Act, 1987 r/w Section 123 (c)(2), 124-A & 125 of the Railways Act, 1989, seeking compensation of Rs.8,00,000/- together with interest, on account of death of L. Haribabu (hereinafter referred as the deceased) in an alleged untoward incident.

2. In brief, it has been averred in the claim application that on 10.09.2018, the deceased, a railway employee, in order to return from Vellore to Chennai, while travelling in Train No.12608 Lalbagh Super Fast Express from Katpadi to Chennai Central, when the train was running between Senjipanambakkam and Manavur railway station, at km.50/26 Up Slow line, unexpectedly fell from

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the running train and died. The railway pass of the deceased is said to have been lost in the incident.

3. To establish her claim, the applicant has placed on record copies of SM's letter, Employment ID card of the deceased, FIR, Inquest Report, Post Mortem Report, Death Certificates of the deceased and his father, Aadhar Card and Bank passbook of applicant, Legal Heir Certificate and Final Report.

4. On receipt of the notice, the Respondent Railway administration filed its written statement along with the DRM's Report wherein it was submitted that the deceased was not a bona fide passenger and the victim had fallen down from the train due to his carelessness. It was submitted that the actual cause of incident was not known since there was no conclusive evidence or eyewitness to the alleged incident.

5. Based upon the pleadings of the parties and material made available on record, the following issues were framed :

ISSUES

- 1) *Whether the Applicant is the only dependant of the deceased?*
- 2) *Whether the deceased was a bona fide passenger as alleged?*
- 3) *Whether the incident in which the deceased allegedly lost life is an untoward incident as defined under Sec.123(c)(2) of the Railway Act, 1989?*
- 4) *Whether the Applicant is entitled for compensation as claimed and other relief if any?*

6. So as to lead evidence, the first applicant has filed her own examination-in-chief on affidavit as AW-1, in this case and placed on record following documents relating to the incident as exhibits A-1 to A-11.

1. Copy of Complaint Letter by SM, Arakkonam (Ex.A-1)
2. Copy of Employment ID of deceased (Ex.A-2)
3. Copy of FIR (Ex.A-3)
4. Copy of Inquest Report (Ex.A-4)
5. Copy of Post Mortem Certificate (Ex.A-5)
6. Copy of Death Certificate of deceased (Ex.A-6)
7. Copy of Death Certificate of father of the deceased (Ex.A-7)
8. Copies of Aadhar Card of Applicant (Ex.A-8)
9. Copy of Bank Passbook of Applicant (Ex.A-9)

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10. Copy of Legal Heir Certificate (Ex.A-10)
11. Copy of Final Report (Ex.A-11)

Counsel for the Respondent had cross-examined the deponent.

7. Respondent railway administration has filed DRM investigation report (Ex.R-1) in this case as evidence.

FINDINGS

8. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of applicants and heard the arguments advanced on behalf of rival parties by their counsel.

Our findings on the issues are as under :-

Issue No. 2

This issue is taken up first for the sake of convenience.

9. It has been averred by applicant that the deceased was working as Pointsman-A in Southern Railway, Chennai Division with office at SMR Office, Royapuram, Chennai. On 09.09.2018, the deceased along with his mother and sister, had gone to his friend Suresh's place at Vellore. As his presence was compulsory in office, on 10.08.2018, the deceased left from Katpadi to Chennai by Train No.12608 Lalbagh Super Fast Express. During the travel, when the said train was running between Senjipanambakkam and Manavur railway stations at km.50/26 Up Slow line, the deceased had an unexpected fall from running train and died.
10. As per the Respondent's DRM Report, at around 11.30 hrs. on 10.09.2018, one person informed the Gate Keeper of LC No.22 that one dead body was found lying between Manavur and Senjipanambakkam railway stations. He visited the spot, found the male body lying beside the track at km.50/26 Up slow line between MAF-SPAM stations and informed the same to SM/Kadambattur, who in turn conveyed the message to GRP/Arakkonam through SM/Arakkonam for taking necessary action. GRP and RPF personnel attended the spot where the body was found.
11. An FIR (Ex.A-1) was filed on 10.09.2018 based on the information given by Udaya Bhanu, Station Master, Arakkonam that Gatekeeper

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Mr. Shivesh Kumar informed him that a male dead body aged about 26 years was lying away from track on up slow line between Thiruvallangadu – Kadambathur. Inquest was conducted from 15.00 to 17.30 hrs. on 10.09.2018 at the place where the body was found. Post Mortem was conducted on 11.09.2018 at Govt. Hospital, Arakkonam, wherein it was opined that the deceased would appear to have died of TTA, shock, multiple injury, skull fracture seen, hemorrhage.

12. During the Inquest, Rs.995/- in cash, Samsung Phone J2, Power Bank, Ring, Honda bike key and Southern Railway ID card No.2940 were found in possession of the deceased. No train ticket or travelling authority was recovered from the body of the deceased. In the Inquest Report (Ex.A-2), in the opinion of Panchayatdars, the deceased, prior to 13.30 hrs. on 10.9.2018, while he was travelling from Katpadi to Chennai, through Train No.12608 Lalbagh Super Fast Express, when the said train was running between Senjippanambakkam to Manavur railway stations, at km.50/28 Up Slow line, due to crowd of passengers or due to the jolting of the train or due to his negligence by travelling near the doorways of the train, had fallen down from the running train, sustained grievous injuries and died on the spot.

13. It has been submitted in the DRM report that the SMR/RPM under whose control the deceased had worked, had stated that the deceased was due for duty on 10.09.2018 in 1100 hrs. – 2100 hrs. shift, after availing weekly rest on 09.09.2018. The Respondent have also filed a letter from SMR/RPM dt.29.04.2023 that the deceased had availed a II class 'A' Privilege Pass No.490536 dated 26.03.2018 from JAT – CAPE valid upto 25.08.2018. The Respondent have also filed a letter issued by I.Ahamed Kabir, Retd.SMR/RPM under whose control the deceased had worked, that it was his normal rostered duty on 10.09.2018 and neither he nor the duty SM had called the deceased for duty in advance in the morning on 10.09.2018 or spoken to him in this regard.

14. In the Claim Application, in Col.II (1)(b), the applicants have stated that the "Railway pass was misplaced at accident place". As per Section 2(29) of

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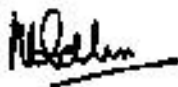
M. S. S.

the Railway Act, 1989, "Passenger" means a person travelling with a valid pass or ticket. During the Inquest, no train ticket or travelling authority was found in possession of the deceased. During cross-examination, the applicant AW-1 stated that "He did not possess Pass for his travel. I don't know whether he purchased ticket for his travel from Katpadi to Chennai. I don't have proof to show that he was on duty, except the Station Master's call asking him to join duty". But, the then SMR had stated that neither he nor the duty SM had called him for duty on 10.09.2018 as it was his normal rostered duty. On the aspect of bonafide passenger, Hon'ble Supreme Court of India in case of Union of India Versus Rina Devi Civil Appeal No. 4945 of 2018 decided on 09.05.2018 has held that,

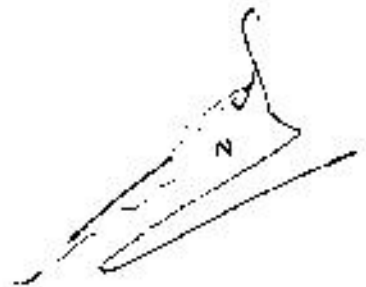
"mere presence of a body on the Railway premises will not be conclusive to hold that injured or injured was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or injured will not negate the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly".

Even if the deceased had travelled with the said IIA Privilege Pass and the pass was lost in the incident, the validity of the pass was only upto 25.08.2018. On the day of incident, i.e., 10.09.2018, the deceased did not have a train ticket or a valid railway pass for the journey. Thus, the applicant has not discharged the initial burden of proving that the deceased was a bona fide passenger.

15. In view of the discussion in the above Paras, on the basis of facts, attending circumstances and preponderance of evidence on record, we have come to the conclusion that the applicant has failed to prove that the deceased was a bona fide passenger. Hence, this issue is decided against the applicant.







Issue No. 1 & 2

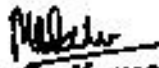
16. In view of our finding on Issue No. 2 above that deceased was not a bonafide passenger, discussion on these issues will be a redundant exercise. These issues are disposed of accordingly.

Issue No. 4

17. In view of the above, the present original claim application deserves to be dismissed with no order as to costs.

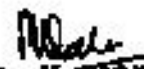
ORDER

18. The claim application is dismissed. In the facts and circumstances of this case, there is no order as to costs.


(Prasanta Kumar Sahu)
Member (Technical)


(Vijayant Singh)
Member (Judicial)

Judgment pronounced, signed and sealed in open Court today i.e. on 30.01.2024.


(Prasanta Kumar Sahu)
Member (Technical)


(Vijayant Singh)
Member (Judicial)

Date: 30.01.2024
Place: Chennai

