

**BEFORE THE RAILWAY CLAIMS TRIBUNAL
CHENNAI BENCH**

Present: **Shri Vijayant Singh, Hon'ble Member (Judicial)**

OA (II-u)/MAS/62/2024

*(Application filed on 17.04.2024,
OA registered on 14.06.2024, heard on 27.08.2024 and decided on 05.09.2024)*

1. Mr. Raman, B. (Father of the deceased)
2. Mrs. Kaleeswarl. R. (Mother of the deceased)

Both are residing at:

1/11, Erukkalainatham
Karuvanur Post
Madurai North Taluk
Madurai – 625014

... Applicants

Versus

Union of India
Through General Manager
Southern Railway
Chennai

... Respondent

*Claim under Section 16 of the Railway Claims Tribunal Act, 1987, R/w Section
123(c)(2), 124-A & 125 of the Railways Act, 1989.*

None for Applicants

Shri R.Subramanian, Counsel for Respondent

JUDGMENT

The present Application was filed by father and mother of Karthick, hereinafter referred to as the deceased, claiming compensation for his death, in an alleged untoward incident.

2. In brief, as per the case of the Applicants, on 28.09.2019 at 02.00 hrs., the deceased along with his parents and 20 other relatives travelled from



Madurai to Rameswaram to perform rituals there. Later, to return to Madurai on 28.09.2019 at 11.20 hours, they obtained train tickets No. UMC 44451927, UMC 44451928 & UMC 44451929 for 12 persons for travel from Rameswaram to Madurai. All of them boarded in train No.56722 and were travelling. The compartment was crowded; and the deceased was travelling by standing near the compartment door. During the travel, at around 14.45 hours, the deceased suddenly fell down from the running train between Thiruppachethi and Thirupuvanam railway stations at Km.23/900-23/000. Immediately, alarm chain pulled but the train immediately not stopped, the train stopped only at Thirupuvanam railway station. Immediately, they alighted from the train, rushed to the spot where the deceased fell down and saw that the deceased sustained grievous injury on his head, profusely bleeding and unconscious. The deceased was taken to Government Hospital/Thirupuvanam through 108 Ambulance and subsequently to Government Rajaji Hospital/Madurai for treatment. On 30.09.2019 at 06.45 hrs., the deceased succumbed to injuries. To establish their claim, applicants have placed on record copies of the relevant documents.

3. 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 incident occurred due to high negligence of the deceased as he travelled on the footboard of the train.

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

ISSUES

- 1) *Whether the deceased was a bonafide passenger, as alleged?*
- 2) *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?*
- 3) *Whether the applicants are the only dependants of the deceased?*



4) *Whether the applicant is entitled for compensation as claimed and other relief if any?*

5. So as to lead evidence, Mother of the deceased, Kaleeswari. R. (2nd applicant), who was present before this Tribunal on 23.08.2024, has filed her own examination-in-chief affidavit as AW-1, in this case, and got the following documents relating to the incident, marked as exhibits as exhibits A-1 to A-18.

1. Copy of Accident Register of GH/Thirupavanam (Ex.A-1)
2. Copy of Accident Register of GH/Madurai (Ex.A-2)
3. Copy of SM's Message (Ex.A-3)
4. Copy of FIR (Ex.A-4)
5. Copy of Death Intimation from Hospital (Ex.A-5)
6. Copy of Alteration Memo (Ex.A-6)
7. Copy of Alteration Report (Ex.A-7)
8. Copy of Inquest Report (Ex.A-8)
9. Copy of Post Mortem Certificate (Ex.A-9)
10. Copies of tickets (Ex.A-10)
11. Copy of Final Report (Ex.A-11)
12. Copy of Death Certificate (Ex.A-12)
13. Copy of Legal Heir Certificate (Ex.A-13)
14. Copies of Aadhar cards of Applicants (Ex.A-14), (Ex.A-15)
15. Copy of Aadhar card of deceased (Ex.A-16)
16. Copies of bank a/c passbook of Applicants (Ex.A-17), (Ex.A-18)

Counsel for the Respondent had cross-examined the 1st Applicant.

6. Respondent railway administration has filed DRM investigation report in this case as evidence.

FINDINGS

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

Findings on the issues are as under :-



Issue No.1

8. The deceased was aged about 17 years, at the time of incident. He, along with his father & mother and other relatives were said to have travelled from Rameswaram to Madurai by Train No. 56722, with tickets No. UMC 44451927, UMC 44451928 & UMC 44451929 that were purchased at 10.30 hours of 28.09.2019. Applicants filed copies of these tickets (Ex.A-10).

9. DRM report, filed by the Respondent, admitted that 'they purchased the tickets at 11.20 hrs., and boarded in various coaches of train. During the journey, he (M.Muthaiah, uncle of the deceased) and his Nephew Karthick travelled in same coach'. This has been further ratified through 'ticket verification report', issued by Senior Console Operator (UTS), Southern Railway, Chennai, of the Respondent Railway. Form-2, issued by the Respondent Railway mentioned that 'no ticket was found at the body but his family members produced the valid unreserved ticket'. These documents are taken as sufficient evidence to prove that the deceased, Karthick, was a bonafide passenger at the time of incident. Issue No.1 is decided in favour of the Applicants, accordingly.

Issue No.2

10. The deceased Karthick along with his parents and other relatives were said to be travelling by Train No.56722/Rameswaram-Madurai Passenger from Rameswaram to Madurai on 28.09.2019. It was reported that the train was crowded at that time, due to which, the deceased, who was travelling near the doorways, had accidentally fallen down from the running train and sustained grievous injuries.

11. The incident was witnessed some passengers of the said train who informed to Station Master/Tiruppuvanam at about 15.03 hrs. of 28.09.2019 that a male person had fell down from the said train, between Tiruppachetti and Tiruppuvanam railway stations. Station Master/Tiruppuvanam issued Form-1 and



conveyed the said incident to all concerned through a written message (Ex.A-3). Loco Pilot and Guard of the train were not aware of the said mishap. It is also learnt that there was some agitation among the passengers for some time.

12. Shri P.Pakiyam, Acting Keyman/Tiruppuvanam informed Station Master/Tiruppuvanam that one male person was found injured condition at Railway Km.24/4-5 and the victim was identified as R.Karthick, S/o Raman. The victim was admitted in Government Hospital/Tiruppuvanam, by his parents. Further, the deceased was directed to Government Rajaji Hospital/Madurai for further treatment, where the deceased died on 30.09.2019, while undergoing treatment.

13. FIR (Ex.A-4) was lodged by father of the deceased at GRP/Manamadurai on 28.09.2019 at 22.00 hrs., Initially, the case was registered at GRP/Manamadurai as Accidental Fall of Non-Act, but subsequently, the Section was altered as Sec. 174 Cr.P.C., on 30.09.2019, since the victim died at Government Hospital/Madurai. Copies of Alteration Memo (Ex.A-6) and Alteration Report (Ex.A-7) were filed by the Applicants, to this effect.

14. On the basis of FIR (Ex.A-4), Inquest was conducted from 08.00 hrs. to 10.30 hrs. of 01.10.2019 at the Mortuary of Government Rajaji Hospital/Madurai. Inquest Report revealed -

"The deceased was travelling in Rameswaram to Madurai Passenger train in an unreserved compartment, the train was crowded. During the travel, when the train was nearing Thirupuvanam Railway Station he fell down accidentally from running train; sustained grievous injuries on his head, profusely bleeding, admitted at Government Rajaji Hospital, Madurai, as in-patient, undergoing treatment. But he died at the Government Rajaji Hospital, Madurai, on 30.09.2019 at 18.45 hours. he died, failing treatment"



15. Final Report (Ex.A-11) of GRP/Karaikudi to Judicial Magistrate Court, Manamadurai, concluded that 'it was decided that the death of Karthik, aged 16 - deceased in this case as ACCIDENTAL DEATH DUE TO FALLEN DOWN FROM TRAIN'. Post mortem report (Ex.A-9) of the deceased indicates that 'the deceased would appear to have died of multiple injuries'.

16. The only contention of the Respondent Railway in its DRM report is that "SSE/P.Way/MG/Madurai informed that no jerk/jolt was reported at Railway Km. No.24/100-500 in between Tiruppachetti and Tiruppuvanam railway stations. Loco Pilot and Train Manager of Train No.56722 Passenger train also had not reported about any jerk/jolt in the said section" and concluded that 'the incident occurred due to high negligence of the deceased as he travelled on the footboard of the train which is against Railway safety rules'.

17. Negligence on the part of a passenger has already been examined by the Hon'ble Apex Court and it was held in the following judgments that it has no bearing on the liability of the Railways.

(a) In (Jameela & others v. Union of India) AIR 2010 SC 3705, the Hon'ble Supreme Court has laid down that even if it were to be assumed that a passenger fell down from the train due to his own negligence, it will not have any effect on the compensation payable under Section 124-A of Railways Act, 1989.

(b) In "Union of India vs. Prabhakaran Vijaya Kumar and others" {(2008) 4 MLJ 323 (SC)} Hon'ble Supreme Court stated that Section 124A lays down strict or no fault liability in case of railway accidents and where strict liability applies, proof of negligence is not required. Hence, it is irrelevant who was at fault.



18. In the case of Union of India vs. Rina Devi in Civil Appeal No.4945 of 2018 decided on 09.05.2018, the Hon'ble Supreme Court had held that:

"18.6 We are unable to uphold the above view as the concept of 'self inflicted injury' would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on 'no fault theory'. We may in this connection refer to judgment of this Court in **United India Insurance Co. Ltd. versus Sunil Kumar** laying down that plea of negligence of the victim cannot be allowed in claim based on 'no fault theory' under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor."

19. The ratio of the above judgements squarely applies to this case and death of the deceased took place while he was travelling by Train No.56722 Passenger, had fallen down from running train at about 14.45 hours of 28.09.2019 between Tirupachetti and Tiruppuvanam railway stations at Km.23/900 - 23/000 and subsequently died on 30.09.2019 at Madurai Rajaji Medical College Hospital, Madurai. I believe that the incident in which the deceased lost his life was an untoward incident. Hence, I hold that the deceased lost his life due to injuries suffered in an untoward incident, as defined under section 123(c)(2) of the Railways Act, 1989 and thus Issue No.2 is decided in favour of the Applicants.

Issue No.3

20. Applicants have preferred the present claim before this Tribunal being dependents of the deceased. To prove their identity, applicants have produced their Aadhar Cards (Ex.A-14, A-15). Besides, the applicants have also filed Legal




Heir Certificate (Ex.A-13) of the deceased, in which the names of the Applicants are listed.

21. This Tribunal takes cognizance of Aadhar cards of the deceased and of the Applicants as well as Legal Heir Certificate of the deceased as sufficient proof to hold that the parents of the deceased who are applicants in the present case are dependents of the deceased, Karthick. On the other hand, no evidence has been adduced on behalf of the respondent to rebut the case of the applicants on the point of dependency. Moreover, during pendency of the claim application, none else appeared before the Tribunal claiming himself/herself as one of the dependents or dependent of the deceased. Therefore, the Applicants viz. Father and Mother of the deceased are the only dependents of the deceased as per the Railway Act. Issue No.3 is decided accordingly.

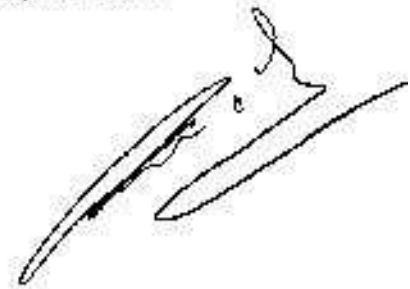
Issue No.4

22. Having held that the deceased was a bona fide passenger, who died in an untoward incident and Applicants herein are dependants of the deceased, the Applicants are entitled for compensation. Hence, ordered.

ORDER

23. Mother of the deceased (AW-1) was examined by this Tribunal, in terms of Rule 5.4.1 of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, about her economic conditions, wherein she submitted that she works as a daily wage worker and earns Rs.280/- per day and that she also gets Rs.1,000/- per month from the government. Mother of the deceased (AW-1) further deposed that her husband (father of the deceased – 1st applicant) works as Selling Agent in a Cement Company, and earns around Rs.15,000/- per month. Keeping in view the economic conditions of the applicants, the compensation amount of Rs.8,00,000/- (Rupees Eight lakhs only) is apportioned as follows:

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24. Applicants had filed the present claim application before this Tribunal, on 17.04.2024 i.e. after a delay of 690 days. This Tribunal, while condoning the delay 690 days in filing the claim application vide Order dt. 10.06.2024, had stipulated that no Interest shall be paid for the period of delay of 690 days. Hence, Interest shall be calculated from the date of application (17.04.2024) till date of this judgement.

25. The claim application is, hereby, allowed and a compensation of Rs.8,00,000/- (Rupees Eight lakhs only), is awarded along with interest @9% per annum from the date of filing of application till date of this judgement.

26. The compensation amount of Rs.8,00,000/- (Rupees Eight lakhs only) is apportioned as follows:

Applicant's Name	Awarded Amount	Amount to be given through ECS/NEFT/ RTGS	Amount to be invested under Annuity Scheme
Mr. Raman. B. Applicant No.1 (Father of deceased)	Rs.4,00,000/-	Rs.40,000/- plus proportionate Interest	Balance amount of Rs.3,60,000/- (Rupees three lakhs sixty thousand) shall be split into 72 fixed deposits of Rs.5,000/- each and invested for a period of 1 to 72 months in the ascending order. The bank shall release the amount monthly with accumulated interest upon maturity of each of these deposits to the credit of the Bank Account of the Applicant.
Mrs. Kaleeswari. R. Applicant No.2 (Mother of deceased)	Rs.4,00,000/-	Rs.40,000/- plus proportionate Interest	Balance amount of Rs.3,60,000/- (Rupees three lakhs sixty thousand) shall be split into 72 fixed deposits of Rs.5,000/- each and invested for a period of 1 to 72 months in the ascending order. The bank shall release the



			amount monthly with accumulated interest upon maturity of each of these deposits to the credit of the Bank Account of the Applicant.
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27. Accordingly, Respondent Railway is directed to deposit the awarded amount of compensation with 9% simple interest from the date of filing the application (17.04.2024) till the date of this Judgment within 60 days from the date of this judgment, in the Sutors' money account being maintained by the Additional Registrar of this Tribunal. If the Respondent Railway fails to pay the amount within the above stipulated time (60 days), the awarded sum will carry simple interest @ 9% per annum from the date of filing the application till the date of payment.

28. The applicants are hereby directed to furnish the particulars of their savings bank account of a Nationalized bank near to their permanent place of residence (if not furnished in the claim application) along with a copy of Aadhar Card, PAN card, two photographs and pass book of the bank with necessary endorsement of the bank that no debit card/Cheque book has been issued, with the Registry of this Bench.

29. Further we deem it proper to direct the concerned bank that:

- (a) Bank shall not permit any joint name to be added in the saving bank account or fixed deposit amount of the claimants i.e. saving bank account of the claimants shall be an individual bank account and not joint account.
- (b) The bank shall not issue any cheque book and debit card to the claimants. However, in case the debit card or cheque book has already been issued, bank shall cancel the same before the disbursement of the award amount.
- (c) No loan, advance, withdrawal or premature discharge be allowed on fixed deposit without the permission of the court.



(d) The bank shall make an endorsement on the passbook of the claimants to the effect that no cheque book and/or debit card have been issued.

30. The Registry is directed to defer the disbursement of awarded amount till passbook of savings bank account of the claimants in a bank near to the place of their permanent residence is not produced along with necessary endorsement.

31. The Registry is further directed to ensure that the statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished by the bank to the claimants.

32. Registry is directed to send a free certified copy of this judgment to the parties in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

33. In view of the above facts and circumstances of the case, there is, however, no order as to costs.


(Vijayant Singh)
Member (Judicial)

RCT/MAS

Judgment pronounced, signed and sealed in open Court today i.e. on 05.09.2024. File consigned to Record Room.


(Vijayant Singh)
Member (Judicial)

RCT/MAS

Date: 05.09.2024
Place: Chennai

