

**BEFORE THE RAILWAY CLAIMS TRIBUNAL
CHENNAI BENCH**

Present:

Shri Vijayant Singh, Hon'ble Member (J)

OA (II-U)73/2024

(OA registered on 16.07.2024, heard & reserved on 12.11.2024 and
decided on 26.11.2024)

- 1) Suseela, w/o. Murugan
(Wife of the deceased)
- 2) Babu, s/o. Murugan
(Son of the deceased)
- 3) Ramesh, s/o. Murugan
(Son of the deceased)

All are residing at
No.99, J.D. Road
Bargur - 635 104
Krishnagin District

... Applicants

Versus

Union of India owning
Southern Railway represented by its
General Manager, Chennai -3 .

... Respondent

Mr. V. Jayakumar, Ld. Counsel for the Applicants

Mr. M. Sathyan, Ld. Counsel for the Respondent

Claim for Rs.8,00,000/- with accrued interest from the date of incident till
disposal of application

JUDGMENT

1. The applicants have preferred the case in hand before this Tribunal 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 Murugan (hereinafter referred as the deceased) in an alleged untoward incident.

2. In brief, as per the Applicants in their Affidavit & OA, the deceased who was doing textile business, obtained an ordinary unreserved train ticket No.UMH62909975 on 15.07.2022 from Tirupattur to Kochuveli and boarded the Bangalore - Kochuveli train. During travel, he fell down from the running train on the side of railway track on 16.07.2022 between Sankari and



Aanangur railway stations at km.373/14-16, sustained grievous injuries, profusely bleeding and died on the spot. To establish their claim, the Applicants have placed on record copies of relevant documents along with the claim application.

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 deceased was in possession of a ticket but there was no eyewitness or conclusive evidence to prove that the deceased had travelled by train and fallen down from train on 15/16.07.2022. It was also submitted that the actual reason for his death was not known and that the Railway was not responsible for the incident.

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 bona fide 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 applicants are entitled for compensation as claimed and other relief if any?*

5. So as to lead evidence, the second Applicant Babu, son of the deceased 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-23.

1. Copy of SM Message (Ex.A-1)
2. Copy of FIR (Ex.A-2)
3. Copy of Observation Mahazar (Ex.A-3)
4. Copy of Seizure Mahazar (Ex.A-4)
5. Copy of rough Sketch (Ex.A-5)
6. Copy of Inquest Report (Ex.A-6)
7. Copy of Ticket (Ex.A-7)
8. Copy of Post Mortem Certificate (Ex.A-8)
9. Copy of Viscera Report with final opinion of Doctor (Ex.A-9)
10. Copy of Final Report (Ex.A-10)

11. Copy of Death Certificate (Ex.A-11)
12. Copy of Legal Heir Certificate (Ex.A-12)
13. Copy of Aadhar Card of the deceased (Ex.A-13)
14. Copy of Aadhar Card of the 1st Applicant (Ex.A-14)
15. Copy of Aadhar Card of the 2nd Applicant (Ex.A-15)
16. Copy of Aadhar Card of the 3rd Applicant (Ex.A-16)
17. Copy of Bank Passbooks of Applicants (Ex.A-17 to Ex.A-19)
18. Copy of Form 1 attached in DRM Report page No.23 (Ex.A-20)
19. Copy of photographs attached in DRM Report page No.39, 40 & 41 (Ex.A-21 to Ex.A-23)

Counsel for the Respondent had cross-examined the deponent.

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, evidence adduced on behalf of applicants and heard the arguments advanced on behalf of rival parties by their counsel.

My findings on the issues are as under :-

Issue No.1

8. As per the Applicants, the deceased, was carrying on the business of buying old stock textiles from Kerala and selling them at Bargur in Tamil Nadu. On 15.07.2022, the deceased obtained an unreserved train Ticket No.UMH62909875 for travel from Tirupattur to Kochuvelli and boarded Bangalore – Kochuvelli Express. While travelling, he fell down from the running train between Sankari and Aanangur railway stations, sustained grievous Injures and died on the spot. Applicants have filed the II class Mail/Exp. train ticket (Ex.A-7) bearing No.62909875 for Rs.160/- from Tirupattur to Emakulam Jn. which has been verified by Sr.Console Operator/ UTS/Southern Railway/Chennai and found to be genuine. The Respondent vide their DRM report have not disputed the availability of ticket. Hence, there is no legal impediment to hold that the deceased was undertaking his journey from Tirupattur to Emakulam Jn. as a bona fide passenger as defined under

Section 2 (29) read with Section 124 A of the Railways Act, 1989. This issue is answered accordingly.

Issue No. 2

9. As per the Respondent vide DRM Report, on 16.07.2022, at about 11.30 hrs., Ranjeet Kumar, Deputy Station Superintendent, Erode railway station lodged a complaint with GRP/Erode that on 16.07.2022 at about 11.25 hrs., K. Ankappa, Keyman/Sankari Durg reported through Mukesh Kumar Singh, SM/Sankari Durg that he noticed one male dead body lying left side of the track on down line at km.373/14-16 between Sankari Durg and Anangur railway stations. Based on the complaint, an FIR (Ex.A-2) was registered by the GRP/Erode.

10. Inquest was conducted from 08.00 to 10.00 hrs. on 17.07.2022 at the mortuary of Perundurai Govt. Medical College Hospital. Post mortem (Ex.A-8) was conducted on the same day at Govt. Erode Medical College & Hospital, Perundurai wherein it was opined that the deceased would appear to have died of Shock and Hemorrhage due to multiple injuries. The viscera was preserved and sent for chemical analysis. As per the Final Opinion (Ex.A-9) on the Post Mortem Report, no ethyl alcohol or other poison was detected in the viscera.

11. In the Inquest Report (Ex.A-3), in the opinion of Panchayatdars, the deceased Murugan was carrying on the business of buying old stock clothes from Ernakulam, Kerala and selling them at Bargur. That on 15.07.2022, in order to get clothes at Ernakulam, he came to Tirupattur railway station, obtained unreserved ticket No.UMH6290997 for travel from Tirupattur to Ernakulam and boarded a train. During the travel, prior to 10.45 hrs. on 16.07.2022, he accidentally fell down from train at the place of incident, sustained severe injury on the back of his head and died.

12. In the Respondent's DRM Report, it has been concluded as follows:

"1) The incident has taken place and it is not due to the fault of Railways.

...



4) There was no eye witness and any conclusive evidence to prove that the deceased had travelled by train and fallen down from train on 15/16.07.2022. The exact reason for his death is not known.

From the above, Railway is not responsible for the incident and the claim preferred in this case is not genuine."

13. The Hon'ble High Court of Kerala at Ernakulam vide their judgement in Union of India vs. A.Geetha & Others (2018 ACJ 941) in MFA No.30 of 2010 decided on 24.5.2017 had held as follows:

12. The pleadings of the applicants in the original application disclose that Sandhya was travelling alone in the train. Her bag containing material things including the ticket taken by her for travelling purpose was lost. Her body was found lying in the railway track. It is pertinent to note that even though disclosure of the facts is made in the original application, the respondent has not ventured to controvert those. The respondent has also no case that any enquiry in the matter was conducted by them and the contrary was revealed to them. The only objection raised was regarding the non-pulling of the chain by co-passengers and non-production of the ticket by the claimants. The lady being a passenger not in accompaniment with any of the original applicants, it is difficult for the latter to state specifically about the incident. The attending circumstances being so, the authorities of the Railway, being in reachable space to the place of incident, are the appropriate person to conduct an enquiry and to get convinced themselves about the untoward incident rather than the original applicants, who were in a remote place at the relevant time. The authorities of the railway cannot take advantage of their inaction to conduct an enquiry and the incapacity of the original applicants to place on record evidence supporting their claim. In the case on hand, the attending circumstances drawn out from the pleadings of the original applicants are leaning in favour of the original applicants rather than those advanced by the respondent.

13. The dictum in the decision supra rendered by a Division Bench of this Court, of which one among us, was a constituent member, is also relevant in the context and is extracted hereinbelow:-

"(8) We have considered all the relevant inputs. To us it appears that Chapter XIII of the Railways Act reflects the vibrant compassion of the legislature in favour of the victims of untoward incidents that take place during the operation of the Railways. Even though there is no specific liability known to law on established legal principles obliging the railways to compensate the victim of such untoward incidents, law declares that Railways shall compensate the victims. More than enforcement of a legal right, the statutory provision recognizes compassion and concern which the Railway administration must show to the unfortunate victims of the untoward incidents. An anxious perusal of the relevant statutory provisions and the rules must convince that the framers of the statute and the rules did not reckon the proceedings as an adversarial litigative



process at all. If there be any semblance of doubt on this aspect it will be appropriate to frequent oneself with the stipulations of the *Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003* (as amended in 2007). Rules 7 to 10 clearly show that the burden is on the local police and the officers of the force to conduct an enquiry/ investigation into the cause of the incident and come to appropriate conclusion. To us it appears that the provisions clearly reveal due recognition and acceptance of the helplessness of the claimants who may be far away from the scene/venue of the incident and consequentially incapable of adducing very compelling evidence in support of their claim. The realistic acceptance of the plight of the victims is perfectly clear from the mechanism stipulated for enquiry/investigation under the *Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003*. The burden really is not placed entirely on the shoulders of the victims or claimants. But, the burden is placed on the shoulders of the Railway and its officials to conduct a proper enquiry to ascertain whether claimants are really entitled to amounts or not."

Therefore, the contention of the learned counsel for the respondent that the applicants failed to discharge the burden to establish their claim would not sustain. As disclosed from the dictum, the burden is on the shoulders of the Railway and its officials and they have to discharge the same by conducting appropriate enquiry into the cause of the incident. In the case on hand, neither the Railways nor its officials seem to have conducted an enquiry of the nature and it is highly improper for them to blame the claimants for their inaction."

14. The Hon'ble Apex Court in the case of *Union of India Vs Prabhakaran Vijaya Kumar & others* reported in 2008 ACJ 1895, has held as follows:

"Section 124A lays down strict liability or no fault liability in case of railway accidents. Hence, if a case comes within the purview of Section 124A it is wholly irrelevant as to who was at fault."

15. In my view, the principles of law laid down in the above judgements would clearly apply to the facts of this case. The Respondent have submitted that the incident had taken place but the exact reason for the death was not known. Burden was on the shoulders of the Respondent Railway but they have not proved their defence in respect of this issue. In other words, Respondent could not lead any evidence who/which could disprove the claim of the Applicants. There is no plea by the Respondent that the incident falls under any of the proviso in Para 124A of the Railways Act 1989. In view of the above, I am of the considered view that this was an accidental fall from train.



16. In view of the above facts and under the circumstances of this particular case, it is held that the deceased met with an untoward incident due to an accidental fall from the passenger carrying train, suffered injuries and the present case is well within the definition of Section 123 (c) (2) read with Section 124-A of the Railways Act, 1989. Accordingly, issue No.2 is decided in favour of the applicants.

Issue No.3

17. The Applicants have preferred the case in hand before this Tribunal being the sole dependents of the deceased. To prove their identity, Applicants have produced their Aadhar Cards and to prove their sole dependency, they have produced the Legal Heir Certificate (Ex.A-12) issued by Tahsildar, Bargur Taluk. As per the Legal Heir Certificate, the daughter and parents of the deceased have been mentioned as predeceased legal heirs. 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 sole dependency. Moreover, during pendency of the claim application, none else appeared before the Tribunal claiming himself/herself as one of the dependents or the sole dependent of the deceased. Therefore, the Applicants viz. wife and two sons of the deceased are the only dependents of the deceased as per the Railway Act. This answers Issue No.3.

Issue no. 4

18. In view of my findings on issue no. 1, 2 & 3 above, the Applicants are entitled to get compensation of Rs.8,00,000/- as prescribed under part-I of the Schedule appended to Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016. This issue is decided accordingly.

ORDER

19. The application is allowed. The original application was filed with a delay of 304 days. While condoning the delay on 12.07.2024, this Court had ordered that "In case the Claim petition is allowed, no interest shall be paid for the period of delay of 304 days." Hence, the Respondent shall pay to the

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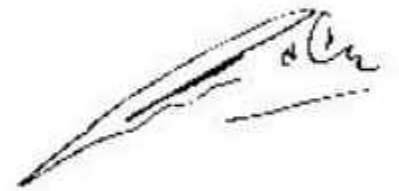


applicants a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) along with simple interest @ 9% per annum from the date of filing (15.05.2024) till the date of this judgement, as compensation as per apportionment given below within 60 days from the date of this order. If the Respondent Railway fails to pay the amount within above stipulated time (60 days), the awarded sum will carry simple interest @ 9% per annum from the date of filing till the date of payment, after deducting 304 days of delay in filing the application.

20. The claimants are directed to submit Form 15G or Form 15H (for senior citizen) to the Presenting Officer of the Railway (as applicable under sub-section (2) of section 19 of the Railway Claims Tribunal Act, 1987) within the 60 days from this order otherwise the Railway Administration may deduct the applicable TDS as per the provisions of the Income tax act.

21. The Respondent Railway administration is directed to deposit the whole amount along with interest with the Registry of RCT/Chennai within a period of 60 days from date of the order. Further the Respondent is directed to place the proof of awarded amount on record with up to date interest along with the calculation sheet.

22. During Enquiry under Section 5.4.1 of Railway Accidents and Untoward Incidents (Compensation) Rules-1990, the second Applicant & son of the deceased, stated that his father was selling textile goods at Bargur, earning approximately Rs.15,000/- to Rs.20,000/- per month. His father had two sons and a daughter. The daughter died in 2005. The wife of the deceased was not working but was getting financial assistance of Rs.1000/- per month and free ration from the Government. Both the sons were living separately. The second son of the deceased was earning Rs.15,000/- per month. Registry is directed that the awarded amount shall be kept in the bank as detailed below :

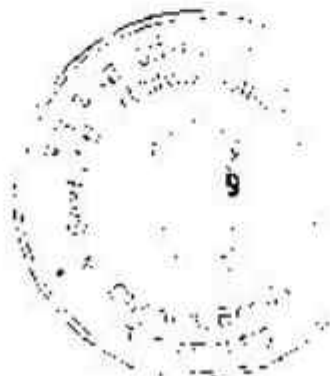


Applicants Name	Awarded Amount	Amount to be given through ECS/NEFT/ RTGS	Amount to be invested under Annuity Scheme
Suseela, Applicant No.1 (Wife of deceased)	Rs.8,00,000/-	Rs.1,00,000/- plus interest	Rs.5,00,000/- (Rs. Five lakhs only) shall be split into 50 fixed deposits of Rs.10,000/- each and invested for a period of 1 to 50 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 the Applicant
Babu, Applicant No.2 (Son of deceased)	Rs.1,00,000/-	Nil	Rs.1,00,000/- (Rupees One lakh only) shall be kept in fixed deposit for a period of one year. The bank shall release the amount with accumulated interest upon maturity of deposit to the credit of the respective Bank Account.
Ramesh, Applicant No.3 (Son of deceased)	Rs.1,00,000/-	Nil	Rs.1,00,000/- (Rupees One lakh only) shall be kept in fixed deposit for a period of one year. The bank shall release the amount with accumulated interest upon maturity of deposit to the credit of the respective Bank Account.

23. 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.

24. Further I deem it proper to direct the concerned bank that:

- 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.
- 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.

25. 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 produced along with necessary endorsement.

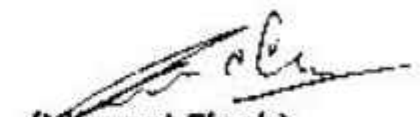
26. The Registry is further directed to ensure that the statement containing FDR number/FDR amount/ date of maturity and maturity amount shall be furnished by the bank to the claimants.

27. 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.

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


(Vijayant Singh)
Member (Judicial)

Judgment pronounced, signed and sealed in open Court today i.e. on 26.11.2024.


(Vijayant Singh)
Member (Judicial)

Date: 26.11.2024
Place: Chennai

