

रेल दावा अधिकरण, नागपुर पीठ, नागपुर के समक्ष

BEFORE THE RAILWAY CLAIMS TRIBUNAL: NAGPUR BENCH, NAGPUR

QUORUM: Mrs. IVY CHARLES D'CRUZ, HON'BLE MEMBER (JUDICIAL),

RCT/BANGALORE at NGP,

ACTING AS CIRCUIT BENCH OF PARENT BENCH i.e. RCT/MUMBAI BENCH

CASE NO. -OA(IIU)/MCC/107/2020

Date of filing - 10.12.2019.

Date of Judgement - 21.01.2020.

APPLICANT:

1. Mr. Shivakant Ramanlal Sharma
Aged about 19 years,

Residing at:- Hayat nagar, Sultanpur,
Gosaiganj, Uttar Pradesh, Pin-228119.
Aadhar card No. 529544008469
Mobile No. - 9967658818.

Local address-Ram Sound Services,
Sanjay Nagar, Shop no.4, Sion, Mumbai-400022

V/s

RESPONDENT:

Union of India,
Through General Manager
Central Railway, C.S.T. Station Building
C.S.T. Station, Mumbai-400022.

VALUE OF CLAIM: Rs. 8,00,000/-

Applicants by Advocate Shri D.Kulkarni joined through hybrid mode.

Respondent by Advocate Shri P.Pal joined through hybrid mode.

JUDGEMENT

1) The applicant has filed this claim application seeking compensation for injuries sustained by him during the alleged train journey under Section 16 of the Railway Claim Tribunal Act, 1987.

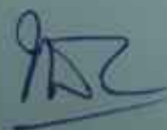
2) It is the case of applicant that on 15.08.2019 he was travelling by Harbour local train from Wadala to Govandi station in second class compartment holding a

valid second class return railway ticket. When the said local train reached in between GTB nagar and Chunabhatti station near KM no. 13/1 and 13/2 at that time due to severe jerk, heavy rush and push by the co-passengers he accidentally fell down from running train and sustained grievous injuries. It is also contended that the said ticket got lost during the course of incident.

3) Respondent railway appeared and filed its written statement and denied its liability. Respondent denied the bonafide passenger status of the deceased and stated that no ticket was recovered in inquest panchnama. Respondent also denied the contention of the applicant, that he did not adduce any evidence to substantiate his contention that he sustained alleged injuries due to untoward incident. While denying all the averments of the applicant as made in the claim application either being wrong or for want of knowledge, it is averred that the applicant is not entitled to any compensation. With these averments, a prayer is made to dismiss the claim application with costs.

Based on the pleadings of the both the parties following issues were framed on 07.04.2021:-

1. Whether applicant was a bona fide passenger of the alleged train on the relevant day, with valid journey ticket?
2. Whether the applicant proves that on the relevant day, he sustained injuries in the train in an untoward incident in terms of section 123 (c) of the Railways Act, 1989?
3. To what order/relief?
- 4) Applicant, Shivkant Ramanlal Sharma, appeared in the witness box as AW-1, filed his affidavit and deposed on oath. The documents Exh.A-1 to A-9 were marked on behalf of the applicants. The applicants had been duly cross examined by the Counsel for the Respondent. Respondent filed DRM report and opted not to adduce any evidence from their side.



5) Heard the Ld. Counsels for both the parties and carefully perused entire material placed on record. My findings on the issues involved are as under:-

ISSUE No. 1 & 2

6) The applicant had purchased a valid general ticket but, admittedly, the said ticket was lost. As per the case of the applicant, he was travelling from Wadala to Govandi Rly. Stn. by Harbour local train after purchasing a valid railway ticket for him but while travelling he fell down from the running train, got injured and the said ticket was lost.

The respondents in their written statement have denied that the applicant was not a bonafide passenger of the alleged train and no ticket was recovered from the applicant during the course of investigation. However, the applicant has filed his affidavit and on oath he has stated in the affidavit that he was travelling in the alleged train but the ticket was lost. Applicant in his affidavit has stated that the alleged ticket of himself was recovered by the Railway Police and was handed over to his father alongwith his sack bag, cash of Rs.200/- and clothes but the said ticket was lost by him. During cross examination Respondent Counsel has failed to extract anything from the applicant in their favour and Respondent has not produced any documentary or other evidence to prove that applicant was not a bona fide passenger on the date of incident. No witness was examined by the Respondent railway to show that the applicant was not a bonafide passenger.

The Judgment of Hon'ble Supreme Court in Rina Devi v/s Union of India case in para No. 17.4. held that:-

"mere presence of a body on the Railway premises ill not be conclusion to hold the injured or applicant was bonafide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or applicant will not negative the claim that he was a bona fide passenger. Initial burden will be on claimant which can be discharged by filing on 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."



Nothing contrary has been shown on behalf of the respondent railway. Keeping in view the above, it is concluded that the applicant was a bonafide passenger of the alleged train. Hence, this issue regarding the bonafide of the applicant is decided in favour of applicant.

7) So far as the factum of occurrence of untoward incident is concerned, the memo (Exh.A-1) was issued by Station Manager/Chunabhatti Rly. Stn. on 15.08.2019 at 22.30 p.m. wherein it is mentioned that as per the information received from Motorman/Guard of PG-151, one male person aged 25 years was found lying on platform no.1 tracks in between KM no. 13/1 to 13/2 towards CST end and his below left side leg is cut.

The applicant himself in his statement (Exh.A-3) recorded by Station Chief/Wadala Railway Police Station on 18.08.2019, has stated that he was doing a private job. On 15.08.2019 he as usual came to Wadala for his job. He finished his work at about 10.00 hrs. and came to Wadala station and purchased railway ticket for Govandi and he boarded Panvel local train in second class compartment. But as the said train was over crowded he was standing near the door of the compartment of the train. When the said train reached before Chunabhatti railway station he fell down from the local train due to rush and push of the passengers present in the train as a result his left leg was cut. The same facts have been deposed by the applicant in his affidavit in his deposition. Respondent has cross examined the applicant but could not extract anything in their favour. Respondent counsel argued that the injuries sustained by the applicant was the result of his own negligent act and is Self-inflicted Injury for which railway is not liable to pay compensation to the applicant.

Also, Hon'ble Apex Court in case of Rina Devi in Civil Appeal No. 4945 of 2018 decided on 09/05/2018 observed that unless negligence is callous and imprudent and there is an intent to harm, it cannot be termed as Self-inflicted Injury. Self-inflicted injury has been defined as an injury suffered by a person with intention to suffer harm. In this case, there is no such intent in the instant case. No cogent evidence could be adduced by the Respondent which may establish that the

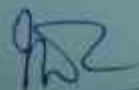
applicant was injured due to self-inflicted injury or any other reasons. Thus, based on above facts and other evidences placed on record, it is clearly established that the accidental fall of applicant while de-boarding the train was an untoward incident resulting into injuries to applicant.

The respondent has not proved anything contrary regarding the happening of untoward incident. After going through the DRM report relating to alleged incident, I find that the statutory report states that the applicant while travelling in the local train was standing near the door of the train & had fallen down from the train, meaning thereby, the respondent admits that the applicant was travelling in the alleged train.

8) In the instant case the injured has been proved to be a bona fide passenger of train. Thus, based on above facts and other evidences placed on record including circumstantial evidence, it is clearly established that the accidental fall of applicant was an 'untoward incident' resulting into injury.

9) Thus, on collating all the relevant facts as brought above, evidences on records and attendant circumstances proved that the applicant was a bona fide passenger and had accidentally fallen down from the train and got injured in the above incident. Keeping in view of the above and the documentary evidence placed on record, it is concluded that the applicant was a bona fide passenger and he was travelling in the alleged train and accidentally fell down from the train and sustained injuries in an untoward incident. In the circumstances explained above and keeping in view the evidences available on record, the issue No. 2 is decided in favour of the applicant.

10) In view of the above it can be concluded that the applicant was a bonafide passenger under Section 124 (A) of Railway Act 1989 and the incident is well covered under Section 123 (c)(2) of the Railways Act as an untoward incident. Accordingly, the issues No. 2 and 3 are decided in favour of the applicant.



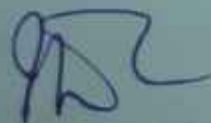
ISSUE No. 3**3. To what order/relief?**

11) In view of my findings on issue No. 1 and 2, it is held that the applicant was a bonafide passenger for his journey on the date of the incident and Applicant has filed Discharge Summary (Exh.A-5) and a photograph of the applicant to prove the injuries sustained by him i.e. amputation of Left Leg below knee. Counsels from both the sides verified the injuries sustained by the applicant and opined that the injuries of the applicant would be classified as per Item no. 19 of part III of Schedule under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 for which the applicant is entitled to get the statutory compensation for a sum of Rs.4,80,000/- (Rs. Four Lakhs Eighty Thousand only)

ORDER

12) In the result, the O.A. is allowed on contest and merits against the respondent. The Respondent Railway shall pay to the applicant a sum of Rs.4,80,000/- (Rs. Four Lakhs Eighty Thousand only) as compensation along with interest @ 9% per annum on their compensation amount from the date of incident till the date of receipt of this judgement.

Accordingly, Respondent Railway is directed to deposit this awarded amount of compensation within 60 days from the date of receipt of this judgment in the Suitors money account being maintained by the Additional Registrar/Mumbai, failing which the applicant shall be entitled for future interest @ 9% p.a. after 60 days till realization. The compensation amount is distributed in the following manner:-



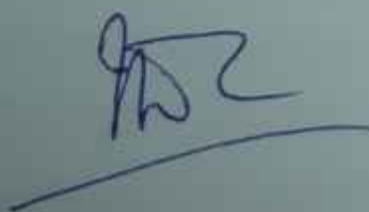
Name of Applicant	Compensation Amount	Disbursement of Compensation Amount	
		Cash	Annuity/ Fixed Deposit
Shivakant Ramanlal Sharma	Rs. 4,80,000/- (Rs. Four Lakhs Eighty Thousand only)	Rs. 48,000/- + interest	Rs. 4,32,000/- (Rs. Four Lakhs Thirty Two thousand only)

13) So far as disbursal of the amount of award is concerned, it is noticed that in Geeta Devi v/s Union of India [FAO 22/2015 & CMA 4501/2015] dated 24th May, 2019, Delhi High Court has inter alia observed that:-

"5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990

1.1. Many of the claimants are drawn from rural areas with low levels of literacy and lower levels of making appropriate decision for the use of amounts guaranteed under the awards. There are several instances of their exploitation by middlemen and touts operating in the field. The scope for such exploitation is itself one of the incentives for fomenting bogus claims, fabricated documents and duplicate claims in different Benches of the Tribunal for the same cause of action. The availability of bulk funds in the name of an ill-informed claimant is also a cause for exploitation. A scheme for protection of the amount due to such a claimant is the need of the hour. Earlier, this Court has involved 21 Nationalized Banks in dialogue to evolve a scheme of annuities for disbursement of claims. They have been ordered already to be implemented in this case, vide directions passed on 22nd February, 2019. This scheme as applied to motor accident claims has been approved by the Supreme Court in its order dated 05th March, 2019 in Krishnamurthi vs New India Insurance Company, SLP (C) No.31521-31522 of 2017. A statutory rule backing will, therefore, best serve the interest of the litigant"

14) In pursuance of the orders passed by the Delhi High Court, Government of India has issued a Notification No. GSR (E) 347 dated 3rd June, 2020 amending Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, amended Rule 5 reads as under:-



"5. Mode of payment—

5.1 The Tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode as shall subserve justice.

5.2 If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance.

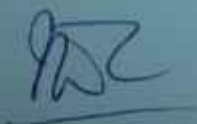
5.3 Nothing in this Rule shall limit the power of the Tribunal to make modifications of the mode of disbursal for reasons to be stated in writing depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed deposit, for the benefit of the claimant.

5.4 The orders dated 21st April, 2017, 24th May, 2019 and 6th November, 2019 of Hon'ble High Court of Delhi in FAO No. 22/2015 and CM Application No. 4501/2015 in Geeta Devi Vs Union of India, relating to disbursement of compensation shall be read as part of this Rule."

Therefore, considering factors impacting judicious use of the awarded sums, like age, marital status and level of dependency of the claimants and in compliance of Rule 5 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended vide Notification of 3rd June, 2020, in the present case, the amounts of award shall be disbursed in the following manner:-

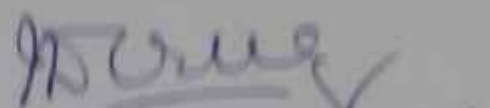
- 15) The respondent railway shall deposit the awarded amount, along with 9% interest per annum, in the Suitors money account of the Tribunal maintained by the Additional Registrar/Mumbai within a period of 60 days from the date of receipt of this order. While depositing the awarded amount along with interest, the respondent railway shall send notice by registered post to the applicants with a copy of the same to the Additional Registrar and to the counsel for the opposite party giving complete details of the payment such as UTR number, calculation of interest etc.

- 16) 10% of the distributed share of compensation to Applicant together with accrued interest on his share of award, shall be released forthwith by ECS/NEFT to him. The remaining amount of applicant i.e. Rs.4,32,000/- (Rupees Four Lakhs Thirty two thousand only), shall be split into 72 monthly fixed deposits of Rs.6,000/- (Rupees Six Thousand only) each and invested for a period of 1 to 72 months in ascending order. The bank shall release the amount with accumulated interest upon maturity of each of these deposits to the credit of the Saving Bank account of the applicant.
- 17) The dependents are hereby directed to submit details of their individual Bank accounts of a nationalized Bank situated near the place of their residence to the Additional Registrar of the Tribunal.
- 18) If the Applicants are entitled to exemption of deduction of TDS, they shall submit Form 15-G or Form 15-H (for senior citizen) to the Presenting Officer of the Railway within 15 days from the date of this order and in such case no TDS is to be deducted by the respondent railway.
- 19) In pursuance of Rule 5.4.4 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended by GSR 347 (E) dated 03.06.2020, following conditions are imposed in respect to the fixed deposits:-
- (i) The Bank shall not permit any joint name(s) to be added to the applicant's savings account or fixed deposit account.
 - (ii) No loan, advance, withdrawal or pre-mature discharge be allowed from the fixed deposit without permission of the Tribunal.
 - (iii) The 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 the award amount.



- (iv) The bank shall make an endorsement on the passbook of the applicants to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the Tribunal and the applicant shall produce the passbook with the necessary endorsement before the Additional Registrar of this Tribunal.

- 20) The application is allowed in the above terms with no order as to costs.
- 21) ADR/NGP is directed to keep a copy of the order for record and send the file to RCT/Mumbai.


21.01.2026

(Mrs. IVY CHARLES DCRUZ)
Member (Judicial)/RCT/SBC at NGP
Acting as Circuit Bench of parent Bench
i.e. RCT/Mumbai Bench.

Nagpur

Date: 21.01.2026.