

**BEFORE THE RAILWAY CLAIMS TRIBUNAL,  
MUMBAI BENCH, MUMBAI  
Claim Application No: OA (II U) / MCC / 132/2019**

1. Mr. Rajesh  
Aged-40 years  
(Father of the deceased)
2. Mrs. Munni Devi  
Aged-37 Years  
(Mother of the deceased)  
R/o House 294, Street/Road/Lane,  
Vil- Bangaon, Post- Bangaon, City Meerpur,  
P.O-Meergaj, Dist- Jaunpur,  
State Uttar Pradesh 222165. ...APPLICANTS

**Versus**

Union of India,  
Through the General Manager,  
Western Railway, CCG,  
Mumbai. ... RESPONDENT

**Appearances:**

|                    |                               |
|--------------------|-------------------------------|
| Mr. A M Rane       | .....Advocate for Claimant    |
| Mrs. Latika Chitre | .....Advocate for Respondent: |

Date of Institution: 17-01-2019

Date of Judgement: 02-07-2025

**CORAM: Shri. Mohit Sinha, Member (T), RCT/ Mumbai**

**JUDGEMENT**

1. This Claim Application is filed by the applicants u/s. 16 of the Railway Claims Tribunal Act, 1987 r/w. sec. 123 (c)(2) & sec. 124 - A of the Railways Act, 1989 for compensation arising out of an alleged untoward incident occurred during the course of working a Railway involving a death of deceased Vishnakumar Rajesh Gautam.

**The factual matrix of the matter in nut-shell is as below:**

2. It is stated that, Vishnakumar Rajesh Gautam, (hereafter referred to as deceased), aged 22 years, was the resident of Meergaj, Jaunpur. The Applicant No. 1 is the father of the unmarried son Vishnakumar and Applicant No. 2 is his mother. On 02-12-2018, the deceased Vishnakumar Rajesh Gautam, was traveling from Nallasopara to Churchgate Railway Station by local train. When the train reached between Prabhadevi and Lower Parel Railway Station due to heavy rush and push by the co-passengers the deceased accidentally fell down from the train and died before admission in the hospital due to multiple injuries sustained by him. The Applicants stated that the deceased was travelling on the strength of a Railway Season Ticket valid from Virar to Churchgate. The same is produced on record. It has been contented that the deceased was the bona-fide passenger and died in untoward incident occurred on 02-12-2018.

3. In response to notice, – Railway Authority appeared and opposed the claim application. The respondent filed Written Statement and also produced on record the DRM reports, accompanied with other relevant police papers. It has been contented that as per the scrutiny of the above documents it is observed that, SS/DDR did not mention any reason of incident in his documents, but GRP/BCT mentioned in his report & Inquest Panchnama that deceased fell down from unknown local train and sustain injuries on his head and died at the spot, but they failed to establish the reason and factual situation of incidence between UP/DN through line LPL-PBHD station, by any supportive evidence. Travelling on footboard is an offence

U/s 156 Railways Act, 1989. Hence railway administration is not responsible.

4. In view of pleading of both parties, and relevant documents produced on record, this Tribunal framed the following issues for just and proper adjudication of Claim Application on merit within ambit of law:-

|    | Issues                                                                                                                                        |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Whether the applicants prove that they are the dependents of the deceased within the meaning of Section 123 (b) of the Railway Act?           |
| 2. | Whether the applicants prove that deceased was a bonafide passenger of the train, on the relevant day?                                        |
| 3. | Whether the applicants prove that the death of the deceased occurred as a result of an untoward incident as alleged in the claim application? |
| 4. | To what order/ Relief                                                                                                                         |

5. That, in order to establish the claim, Applicant No.1 Mr. Rajesh, stepped into the witness-box and filed his Affidavit in lieu of examination-in-chief on record. He deposed that, on 02-12-2018, the deceased Vishnakumar Rajesh Gautam, was traveling from Nallasopara to Churchgate Railway Station by local train. When the train reached between Prabhadevi and Lower Parel Railway Station due to heavy rush and push by the co-passengers the deceased accidentally fell down from the train. The Applicants stated that the deceased was travelling on the strength of a Railway Season Ticket valid from Virar to Churchgate. The same is produced on record. It has been contented that the deceased was the bona-fide passenger and died in untoward incident occurred on 02-12-2018.

6. In the cross-examination of Applicant No.1 Mr. Rajesh, it was suggested on behalf of Respondent- Railway, that the victim Vishnakumar Rajesh Gautam was not a bonafide passenger on the relevant day and it was not an untoward incident. But, the AW-1 Mr. Rajesh, turned-down all these allegations put forth on behalf Respondent.

7. In the backdrop of aforesaid legal provisions, I proceed to scrutinize the evidence produce on record. It is also imperative to bear in mind that the provisions of Evidence Act as well as Procedural law are not strictly applicable to the proceeding before this Tribunal.

#### **ISSUE NO. 1**

8. The Applicant no. 1 categorically deposed in his Affidavit by way of examination-in-chief that both the applicants are the parents of victim Vishnakumar Rajesh Gautam. He was unmarried son of the Applicants. The Applicants have produced Aadhar Cards of the Applicants, PAN Card of Applicant No.1, Death Certificate of the deceased and Ration Card to establish array of dependents of the deceased. It is not in dispute that the Applicant no. 1 is the father of the deceased. The Applicant No.2 is his mother. The Respondent did not put this factual aspect in controversy. Therefore, there is no impediment to hold that the Applicant No.1 & 2 are the dependents of victim Vishnakumar Rajesh Gautam as contemplated under sec. 123 (b) of Railways Act, 1989.

**ISSUE NO. 2**

9. The sec. 2 (29) in general refers to a person travelling with a valid pass or ticket to be a passenger. The Explanation to Section 124-A provides that a passenger includes a person who has purchased a valid ticket for travelling, by a train carrying passengers on any date and becomes a victim of an untoward incident. As long as there is a valid ticket for the journey that would be sufficient to draw, the inference being, a bonafide passenger of the train. The Applicant No. 1 has deposed in his affidavit that the deceased was travelling on the strength of a Season Ticket valid from Virar to Churchgate UTS No. U52467314 and the same is filed along with the claim application. Therefore, the deceased was the bonafide passenger at the time of alleged incident. In fact, it is for the respondent to demonstrate that the Railway season ticket was not valid or that the passenger was not a bona-fide passenger or that the season ticket was not purchased by him. But, the respondent did not succeed to discharge the burden. There is no contrary evidence or material available on record to falsify the theory of possession of Railway ticket put-forth on behalf of Applicant. In such circumstances, there is no impediment to conclude that the deceased was a bona-fide passenger, as defined in sec. 2(29) of the Railways Act as well as Explanation (ii) to sec. 124-A of the Railways Act. Hence, I answer the issue no. 2 in affirmative.

**ISSUE NO. 3**

10. This issue is as to whether the incident of causing the death of victim Navin Subhash Pathak after his falling down from the moving train, would be an untoward incident as envisaged under

section 123 (c) (2) of Railway Act 1989. I have carefully perused the memo of SS/PL prepared on the basis of information received that one unknown male aged 21 years is found lying at Km.No.7/12-13, in between Lower Parel and Mahalaxmi railway station. The recitals of Inquest Panchanama disclosed that the deceased died due to falling down from up through fast local at lower parel station between Km no 7/12 and 7/13 beside up through and down through lines. The DRM Report filed by the Respondent indicate that the deceased fallen down from train sustained injuries but there is no any supportive evidence available on record to that effect.

11. It is settled proposition that provisions of section 124-A are based on the principle of strict liability or no fault liability and it is mandated that the railway administration is bound to pay the compensation regardless of any wrongful act, negligence or default on the part of the railway administration. The Railways can escape from the liability to pay the compensation only when the alleged incident comes within the exception clauses (a) to (e) of the proviso to Section 124-A of the Railways Act, 1989, which are reproduced as below:

- a) Suicide or attempted suicide by him;
- b) Self-inflicted injury;
- c) His own criminal act.
- d) Any act committed by him in a state of intoxication or insanity.
- e) Any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

12. In the above premises, I have no doubt that the victim during the course of travelling accidentally fell down from the train and sustained serious injuries. He succumbed to the injuries received

in train accident. It is a clear case of an accidental falling down from train and died in untoward incident as defined under sec. 123 (c) (2) of Railway Act. 1989 and Respondent cannot be exempted from the liability to pay compensation under section 124 A of Railways Act, 1989.

13. In the backdrop of facts and circumstances of this case and preponderance of evidence on record, I have no hesitation to come to the conclusion that the deceased Mr. Vishnakumar Rajesh Gutam, on 02-12-2018, while travelling as a bonafide Railway passenger from Nallasopara to Churchgate Railway Station, had accidentally fallen down from running train, sustained serious injuries. Accordingly, the incident is covered under "untoward incident" as defined under Section 123 (c) (2) read with Section 124-A of the Railways Act, 1989.

Hence, I answer the issue No. 3 in affirmative.

#### **ISSUE NO.4**

14. Since the incident leading to death of the deceased was an "untoward incident" as defined under sec. 123 (c) of the Railway Act 1989, therefore, in view of part -I of the Schedule appended to Rule 3 of Railway Accident and Untoward Incident (compensation) Rules, 1990, the applicant is entitled for compensation from Respondent - Railway. The date of incident i.e. 02-12-2018, therefore, in view of the norms laid down by Hon'ble Supreme court in the case of Union of India V/S Rina Devi 2018 ACJ 1441, the aforesaid dependent/applicant of the deceased is entitled for compensation of Rs. 8,00,000/- (Rupees Eight Lakh only) (revised compensation effective from 1st January

2017), plus interest @ 9% from the date of incident i.e. 02-12-2018 till the date of this award as a compensation to the Applicant on account of death of Vishnakumar Rajesh Gautam, in an Untoward Incident.

Hence, I pass the following order.

### **ORDER**

- a) The Claim Application filed under section 16 of Railway claims Tribunal Act 1987, is hereby allowed.
- b) The respondent shall pay Rs.8,00,000/- (Rupees Eight Lakh only) to the Applicant as a compensation with interest @ 9% p.a. from the date of incident till date of this order.
- c) The Respondent shall deposit entire amount of award in the office of Additional Registrar, RCT Mumbai within 30 days from the date of receipt of this order.
- d) In case of default in payment within the stipulated period of 30 days as referred above, the Respondent shall pay the further interest @9% per annum from the date of receipt of this order till the date of deposit of payment in RCT.
- e) As per the guidelines delineated by the Ministry of Railways (Railway Board) vide notification dated 3rd June, 2020 under GSR 347 (E) which came into effect from 1st day of January, 2020, after considering the status of the Applicants and to protect the amount from being frittered away, the amount of Rs. 8,00,000/- (Rupees Eight Lakhs only) plus accrued interest shall be disbursed in the following manner:
  - i. Applicant No. 1 Mr. Rajesh and Applicant No. 2 Mrs. Munni Devi shall be permitted to withdraw an amount of Rs. 40,000/-

(Rupees Forty Thousand only) each from their Saving Bank Account through NEFT/RTGS, from the total awarded compensation amount of Rs. 8,00,000/- (Rupees Eight Lakh only).

ii. The balance amount of Rs 7,20,000/- (Rupees Seven Lakh Twenty Thousand only) plus accrued interest till date, be kept in Annuity Deposit Scheme/FDR account in any nationalised Bank located nearer to the permanent residential address of Applicant no.1, in the manner described below.

| Applicant's name.                                | Amount to be disbursed in favour of Applicant(s) by NEFT/RTGS | Amount to be invested in FDR account/ annuity scheme in Nationalized Bank                                                                                                                                                                    |
|--------------------------------------------------|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mr. Rajesh<br>(Father)<br>(Applicant No. 1)      | Rs 40,000/-<br>(Rupees Forty Thousand only)                   | Rs. 3,60,000/-<br>(Rupees Three Lakh Sixty thousand only) plus accrued pro-rata interest in Annuity scheme on similar line as MACAD with monthly payment of Rs. 10,000/- (Rupees Ten Thousand only) till entire deposit amount is exhausted. |
| Mrs. Munni Devi<br>(Mother)<br>(Applicant No. 2) | Rs 40,000/-<br>(Rupees Forty Thousand only)                   | Rs. 3,60,000/-<br>(Rupees Three Lakh Sixty thousand only) plus accrued pro rata interest. This amount will be                                                                                                                                |

|  |  |                                                                                                                                                                                    |
|--|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | kept in the form of Fixed Deposit for a period of 3 years. After maturity the entire amount including interest shall be credited in the Individual Savings Account of the Awardee. |
|--|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

iii) The Claimants are directed to open an individual Savings Bank Accounts in any Nationalized Bank located nearer to the place of permanent residence of Applicant no. 1. This Savings Account will be linked with Annuity (term) Deposit Account on similar line as of MACAD (Motor Accident Claim Annuity (Term) Deposit Account).

iv) The Bank is hereby directed not to permit any joint name(s) to be added in the Savings Bank Accounts or Annuity deposit scheme/Fixed Deposit Accounts of the Applicants i.e. the Savings Bank Accounts of the Applicants shall be an individual Savings Bank Account and not a Joint Account. The concerned Bank is further directed not to issue any Cheque Book and/or Debit Card in the name of Applicant for the above referred S.B. account. If the same are issued, the concerned Bank authority is directed to take step to cancel/ revoke the same before making any payment of awarded amount to the Applicant. Moreover, the concerned Bank shall take care for not issuing any Debit Card relating to above referred S.B. account of the Applicant by any other branch of the Bank. The Bank shall put an endorsement on the Passbook issued in favour of Applicant to the effect that no

Cheque Book and/or Debit Card shall be issued to the Claimants without the permission of this Tribunal.

v) The concerned Bank of the Claimants is directed to permit the Claimants to withdraw money from their Savings Bank Accounts by means of a withdrawal form only. The Claimants are directed to produce the copy of this order before the concerned Bank for requisite endorsement in the Passbooks.

vi) The FDR/MACAD, the Original Annuity deposit scheme/ Fixed Deposits receipts shall be retained by the Bank in safe custody. However, the statement containing Annuity deposit scheme/FDR number, FDR amount, date of maturity and maturity amount shall be furnished by Bank to the Applicants. The maturity amount of the Annuity deposit scheme/FDR's be credited by ECS in the Savings Bank Accounts of the Applicant operated in the nationalised Bank located nearer to the place of permanent residence of Applicant.

vii) The Bank shall not grant any loan, advance, withdrawal or pre-mature discharge on the Annuity Deposits without permission of this Railway Claims Tribunal.

viii) The Claimants are directed to produce the original Bank Passbook with the necessary endorsement as well as Aadhaar Card and PAN Card before the Additional Registrar, RCT, Mumbai. The ADR shall take the following documents on record from the Claimants before releasing the awarded amount for disbursement as mentioned above.

(a) Details of the Bank Accounts of the Claimants near to the place of their permanent residence with necessary endorsement.

(b) Aadhaar Card and PAN Card or any other appropriate ID card; and

(c) Two sets of photographs and specimen signatures of the Claimants.

- ix) There shall be no order as to cost.
- x) The certified copy of this judgement be given to Applicants free of cost.
- xi) Accordingly, the application stands disposed off in above terms.

**(Mohit Sinha)**  
**Member (Technical)**

RM