

**BEFORE THE RAILWAY CLAIMS TRIBUNAL,
MUMBAI BENCH, MUMBAI
Claim Application No: OA (II U) /MCC/195/2020**

1. Kamlakar Atmaram Parab
Aged-68 years
(husband of the deceased)
 2. Yogesh Kamlakar Parab
Aged-38 years
(Son of the deceased).....(Applicant No.1 & 2 Name deleted being dead)
 3. Bhavana Pradip Wagh
Aged-36 years
(Daughter of the deceased)
 4. Aruna Shambhu Bharti
Aged-34 years
(Daughter of the deceased)
 5. Mansvi Mahesh Chavhan
Aged-32 years
(Daughter of the deceased)

R/at Ward No.8, Room No.4465,
Kamgar Vasahat, Near Zenda Bazar,
Opp. J .J College, Nursary Baug, Vasai Gaon,
Bassein, Vasai (W), Palghar-401201
 6. Vaishali Mahesh Bhosale
Aged-41 years
(Daughter of the deceased)

R/at Post Karanja, Dronagiri Mandir
1144/A, Satghar Pada, Taluka Uran
Dist. Raigarh, Maharashtra-400702
- APPLICANT(s)

- Versus -

Union of India,
The General Manager,
Western Railway,
Mumbai.

..... RESPONDENT

Appearances:

Shri. N D Pandey
Ms. Rupali Nayak

-Counsel for the Applicant
-Counsel for the Respondent

Date of Institution: 15-06-2020
Date of Judgment : 12-06-2024

**CORAM: Shri. K. K. Sonawane, Hon'ble Vice Chairman (J) &
Shri. Ved Prakash, Hon'ble Member (T)**

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 Nanda Kamlakar Parab. The Applicants are the dependents of the deceased Nanda Kamlakar Parab, who died in a Railway accident on 23rd February 2020.

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

2. It has been contended that the Nanda Kamlakar Parab (herein after referred as deceased), was the resident of Vasai (w), Palghar. Applicant No. 1 was the husband of the deceased, Applicant No. 2 was her Son. Unfortunately pending the present application the Applicant No.1 & 2 passed away. Therefore the names of Applicant No.1 & 2 came to be deleted being dead by necessary amendment. The Applicant No. 3, 4, 5 & 6 are her daughters. On 23-02-2020, the deceased was intending to travel by local train from Vasai to Panvel Railway Station. However, at about 12:55 hrs, the deceased had fallen down accidentally while boarding the train at Vasai Railway Station on PF no.6, due to sudden jerk and jostling by other passengers. She was taken to the Ravi Hospital, Mumbai, wherein she was declared dead. The Applicant stated that the deceased was travelling on the strength of a valid Railway ticket bearing No. Z37018980 from Vasai Road to Panvel dated 23-02-2020 and the same is filed on record along with the claim application.

3. In response to notice, Respondent – Railway Authority appeared and opposed the claim application. The respondent filed Written Statement and also produced on record the DRM reports pertain to investigation conducted by IPF/RPF/BSR. It has been contented that on 23-02-2020, at around 12.50 am, after receiving information from an

unknown passenger that a female passenger, aged about 55 years, is lying injured on platform 06 and she received the injury on her right hand. The on-duty Station Master reached the spot and after rendering first aid treatment, the GRP/BSR along with on duty GRP 374 sent the victim to Ravi Hospital for further medical treatment. The said woman died during treatment on 23.02.2020 at 13.40 pm. In the Inquest Panchanama there is no mention about the recovery of ticket or pass from the possession of the deceased. However, it was learnt that the deceased was in the possession of one ticket from Vasai bearing no.Z 37018980. The circumstances indicate that the Station Superintendent Vasai Road has mentioned in his documents that an unknown woman, aged about 55 years, was found lying in an injured condition on platform number 6. The GRP/BSR in its documents has shown that the deceased woman died while boarding the Vasai Diva train. She was admitted in Ravi Hospital but she died at 13.40 hrs during medical treatment. The GRP Vasai Road also disclosed that the deceased woman fell down from the train at Vasai Railway Station while boarding the train. The GRP Vasai Road has recovered one ticket no. Z 37018980 Vasai to Panvel and same is mentioned in the Panchnama. However, the copy of the ticket has not been attached, hence, she cannot be considered a bonafide passenger of the Railways. Railway Administration is not responsible for the alleged incidence.

4. In view of pleading of both parties, and relevant documents produced on record, this Tribunal framed the following issues on 06-05-2021, for just and proper adjudication of Claim Application on merit within ambit of law.

	Issues	Answer
1.	Whether the Applicants are the Dependents of the deceased within the meaning of Section 123 (b) of the Railways Act?	Yes
2.	Whether the deceased was a bonafide passenger of the train on the relevant day, with valid journey ticket?	Yes (being admitted by Respondent Railway)

3.	Whether the death of the deceased had occurred as a result of an Untoward incident as alleged in the claim application within the meaning of Section 124-A, r/w 123 (C) (2) of Railways Act?	Yes (being admitted by Respondent Railway)
4.	To what order/ relief?	Application Allowed

5. It is worth to mention that the respondent filed one application letter dated 02-08-2023 in which it has been contended that the respondent do not want to contest the claim application filed for a compensation on behalf of the Applicants. The Respondent came forward with specific contention that the Respondent admitted the claim and the application of the applicants be allowed and decreed in their favour.

6. In view of aforesaid subsequent development about admitting the claim of the Applicants the issue No.2 & 3 framed in the matter came to be decided directly in favour of Applicant being admitted on the part of Respondent- Railway. However, the issue No.1 & 4 were kept open for deciding the dependency of the Applicants as well as for determination of quantum of compensation amount to be granted in favour of applicant for the alleged loss to the family after the death of the deceased in an untoward injuries.

7. Accordingly the Applicant appeared before this Tribunal, and adduced evidence by way of affidavit in lieu of his examination-in-chief on record. The Applicant produced the relevant documents comprising:

Sr.No.	Particulars	
1.	Police Report	A-1
2.	Inquest Panchanama Aadhar Card of Shahanaj Khan	A-2
3.	Statement of Kamlakar	A-3
4.	SM Memo	A-4
5.	Advance Death Certificate	A-5
6.	Original Railway Ticket	A-6
7.	Pan Card of Bhavana	A-7
8.	Pan Card of Aruna	A-8
9.	Pan Card of Mansvi	A-9
10.	Pan Card of Vaishali	A-10

11.	Aadhar Card of Bhavana	A-11
12.	Aadhar Card of Aruna	A-12
13.	Aadhar Card of Mansvi	A-13
14.	Aadhar Card of Vaishali	A-14
15.	Death Certificate of the deceased	A-15

8. Applicant no. 6 categorically deposed in her Affidavit by way of examination-in-chief that the applicants are the dependants of victim Nanda Kamlakar Parab. The Applicant no.1 was the husband of the deceased and Applicant No. 2 was her Son. The Applicant No 3, 4, 5 & 6 are the daughters of the deceased. The Applicant No.1 & 2 being dead their names are deleted from the array of Applicant. The Applicants produced the death certificate of the Applicant No.1 & 2 on record. The Applicants have produced Aadhar Cards, Pan Cards and Death Certificate of the deceased. It is not in dispute that the Applicants are the daughters of the victim Nanda Kamlakar Parab. Therefore, there is no impediment to hold that the Applicants are the dependents of victim Nanda Kamlakar Parab as contemplated under sec. 123 (b) of Railways Act, 1989.

Issue No. IV

9. The incident leading to death of the deceased was an “untoward incident” as defined under sec. 123 (c) of the Railway Act 1989, hence, in view of part - I of the Schedule appended to Rule 3 of Railway Accident and Untoward Incident (compensation) Rules, 1990, the applicants are entitled for compensation from Respondent – Railway. The date of incident is 23-02-2020, 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 dependents of the deceased are 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 incidence till the date of award as

a compensation on account of death of Nanda Kamlakar Parab ,
in an Untoward Incident.

Hence we 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 Applicants 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/- (Eight Lakhs only) plus accrued interest shall be disbursed in the following manner:
 - i) Applicant No. 3 Bhavana Pradip Wagh
 - Applicant No. 4 Aruna Shambhu Bharti
 - Applicant No. 5 Mansvi Mahesh Chavhan
 - Applicant No. 6 Vaishali Maheh Bhosale

shall be permitted to withdraw an amount of Rs. 20,000/- (Rupees Twenty 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 interest if any accrued till date, be kept in the name of Applicant No. 3 Bhavana Pradip Wagh and Applicant No. 4 Aruna Shambhu Bharti Applicant No.5 Mansvi Mahesh Chavhan, Applicant No.6 Vaishali Mahesh Bhosale, Applicant No.7 Miss Muskan Mushahid Khan, Applicant No.8 Miss Fara Mushahid Khan in FDR account in any nationalised Bank located nearer to the permanent residential address of Applicant no.1, in the manner described below.

Name of the applicant	Amount To be paid to the applicant(s) immediately by NEFT/RTGS.	Amount to be invested in fixed deposit scheme of nationalized bank and the amount to be dispersed in the following manner.
Bhavana Pradip Wagh	Rs. 20,000/- (Rupees Twenty Thousand only)	Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand only) + accrued pro-rata interest if any in following manner: Rs. 60,000 will be kept in the form FDR for a period of one year. Rs. 60,000 will be kept in the form of FDR for two years. Rs. 60,000 will be kept in the form of FDR for a period of three years.
Aruna Shambhu Bharti	Rs. 20,000/- (Rupees Twenty Thousand only)	Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand only) + accrued pro-rata interest if any in following manner: Rs. 60,000 will be kept in the form FDR for a period of one year. Rs. 60,000 will be kept in the form of FDR for two years. Rs. 60,000 will be kept in the form of FDR for a period of three years.
Mansvi Mahesh Chavhan	Rs. 20,000/- (Rupees Twenty Thousand only)	Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand only) + accrued pro-rata interest if any in following manner: Rs. 60,000 will be kept in the form FDR for a period of one year. Rs. 60,000 will be kept in the form of FDR for two years. Rs. 60,000 will be kept in the form of FDR for a period of three years.

Vaishali Mahesh Bhosale	Rs. 20,000/- (Rupees Twenty Thousand only)	Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand only) + accrued pro-rata interest if any in following manner: Rs. 60,000 will be kept in the form FDR for a period of one year. Rs. 60,000 will be kept in the form of FDR for two years. Rs. 60,000 will be kept in the form of FDR for a period of three years.
----------------------------	--	--

Accrued interest will be paid proportionately to the Claimants as per Para (1) of distribution of compensation.

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 Accounts will be linked with Annuity (term) Deposit Account on similar line as of MACAD (Motor Accident Claim Annuity (Term) Deposit Account).

iv. 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.

v. The FDR/MACAD, the Original Fixed Deposits receipts shall be retained by the Bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by Bank to the Applicants. The maturity amount of the 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 No. 1.

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

vii. The Claimants are directed to produce the original Bank Passbook with the necessary endorsement as well as Aadhar 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) Aadhar Card and PAN Card or any other appropriate ID card; and
- (c) Two sets of photographs and specimen signatures of the Claimants.

viii. There shall be no order as to cost.

ix. The certified copy of this judgement be given to Applicants free of cost.

x. Accordingly, the application stands disposed off in above terms.

(Ved Prakash)
Member (Technical)

(Kishor K.Sonawane)
Vice Chairman (Judicial)