

Before Railway Claims Tribunal, Mumbai Bench

Coram: Shri Virendra Kumar Goyal, Hon'ble Member (Judicial)/RCT-
Ahmedabad @ Circuit Bench at RCT-Mumbai.
Ms Niva Singh, Hon'ble Member (Technical)

CASE No. OA(IIu)/MCC/213/2023.

Date of Institution: 20.12.2022.

Date of Judgment: 29.01.2026.

1. Mrs. Sandhya Samadhan Garad, aged 32 years
(Widow of deceased)
2. Master Aniket Samadhan Garad, aged about 11 years
(Minor son of deceased)
3. Master Ritesh Samadhan Garad, aged about 7 years
(Minor son of deceased)

(Applicant No.2 and 3 are the minor sons of deceased and are represented
through their natural guardian i.e. their mother Applicant No.1)

All residents of: Flat no.6, Happy Palace, Ramkrishna Nagar
Makmalabad Road, Nashik.

.....APPLICANTS

-Versus-

Union of India by General Manager,
Central Railway, C.S.M.T., Mumbai.

.....RESPONDENT

CLAIM FOR Rs. 8,00,000/-

Mr. A .A. Shaikh, Ld. Counsel for the Applicants.

Mr. D Fenandes, Ld. Counsel for the Respondent.



JUDGEMENT

This Original Application has been filed by the wife and 2 minor sons of the deceased under Section 16 of the Railway Claims Tribunal Act, 1987 for compensation from Respondent Railway on account of alleged death Shri Samadhan Vithal Garad, aged - 40 yrs. (hereinafter referred to as 'deceased') in an alleged untoward incident during alleged train journey, on the ground that they are the dependents of the deceased.

1. Basic details relating to incident as contained and alleged in the Application: -

- a) **Date of incident:** 07.10.2021
- b) **Person Deceased:** Samadhan Vithal Garad, Aged – 40 yrs.
- c) **Relationship of the Applicants with the deceased:** The Applicant no. 1 is the wife and Applicant No.2 and No.3 are the minor sons of the deceased.
- d) **Train involved and transit details:** On 07.10.2021, the deceased was travelling by any passengers carrying train from Nashik Road to Mumbai railway stations with a valid and proper travelling ticket. The ticket was lost during the incident.
- e) **Untoward incident narrated:** On 07.10.2021, the deceased was travelling by any passengers carrying train from Nashik Road to Mumbai railway stations with a valid and proper travelling ticket, there was heavy rush in the train so the deceased was standing near the door, during the course of journey, when the train was running between Ghoti and Lahavit railway stations at K.M. No. 14/22 to 23, the deceased lost his balance and accidentally fell down from the running train due to heavy rush, pushed by co passengers and sudden jerk of the train. He sustained serious head injury and died on the spot. The journey ticket was not recovered from the body of the deceased.

2. Salient features of reply:

- a) **Averments in reply:** The deceased was not a bona fide passenger as no journey ticket or travelling authority was recovered from the deceased. The Respondent most respectfully submits that the Applicants have not discharged the initial burden to prove that the incident comes within the ambit of the requirements of the provisions and definition of Section 124(A), Section 123 (c), Section 123 (c) 2, Section 2 (29), Explanation of Section 124 (A), Section 125, etc. of the Railway Act, 1989. The Respondent further submits that



the Memo dated 07.10.21 of Station Manager Ghoti states that Patrol-Man informed that at KM No: 150/28-30, between Padli- Ghoti, on up road one unknown person is lying in injured condition. The Respondent submits that the wife of the deceased i.e. Applicant No.1 has given statement dated 09.10.2021 stating therein that on 07.10.2021, the deceased was coming from Nashik by some vehicle and was hit by a running train near the railway level crossing at Mundhe village Shivar (area) on up line 28/30, Railway Pole No: 150 and died due to severe injuries on his head, hand, body. The Respondent submits that the deceased was knocked down by a train. Therefore the incident is not an untoward incident under Section 123 (c) (2) of Railway Act but falls within the exceptional proviso of Section 124 (A) of the Railway Act, 1989. The deceased was not traveling on a train, but was a trespasser on the Railway track. There is no eye-witness of the incident and the deceased died due to his self-inflicted injury and own negligence. Respondent has denied its liabilities to pay compensation.

b. Crux of DRM Report:

1. पुलिस द्वारा बनाए गए मरणोत्तर पंचनामा में मृतक के पास से रेल यात्रा बाबत कोई भी टिकट बरामद नहीं हुई है।
2. पुलिस द्वारा तैयार किए गये घटनास्थल पंचनामा में मृतक की मृत्यु ट्रेन से टकराने के कारण होने दर्शाया है।
3. मृतक कि पत्नी संध्या गराड के पुलिस को दिये बयान के अनुसार मृतक समाधान गराड दिनांक 06.10.2021 को ड्रायव्हर (वाहन चालक) का काम करने के लिए घर से गया था।
4. मृतक के परिजनों द्वारा पुलिस को दिये बयानों के अनुसार मृतक समाधान गराड कि मृत्यु किसी अज्ञात ट्रेन की धडक (फटका) लगने के कारण हुई है ऐसा बताया।
5. घटना की सूचना पेट्रोल मैन शिवाजी के द्वारा दी गई थी कि किलोमीटर नंबर 150/28-30 अप ट्रेक पर पाडली मे घोटी स्टेशन के बीच एक अज्ञात व्यक्ति की डेड बॉडी पड़ी है।




6. दिनांक 07.10.2021 को किमी नं 150/28-30 पर मृतक को चलती ट्रेन में गिरते हुये देखने का प्रत्यक्षदर्शी नहीं है।

7. दिनांक 07.10.2021 को किमी नं 150/28-30 पर किसी भी ट्रेन में ACP नहीं हुई है।

3. From the pleadings, following issues were framed.

1. *Whether the deceased was travelling on valid railway ticket and was a bona fide passenger of the train, in question, at the relevant time?*
2. *Whether the applicants prove that the death of the deceased had occurred as a result of an untoward accident incident as alleged in the Claims Application and the present case is covered under section 123(c)(2) of Railway Act, 1989?*
3. *Whether the Respondent prove that Respondent is protected under the exceptional clause (a) to (e) of Sec. 124 (A) of the Railways Act and not liable to pay any Compensation?*
4. *Whether the Applicants prove that they are the dependents of the deceased within the meaning under section 123(b) of Railway Act, 1989?*
5. *To what Order/Relief?*

4. Applicant's Evidence: Applicant No.1, the widow of the deceased, appeared as AW/1, and applicant's witness Shri Kishore Sitaram Shinde appeared as AW/2 and filed their evidence by way of affidavit and examined them before the Bench. They were cross-examined by Ld. Counsel for the Respondent.

5. Respondent's Evidence: Respondent has relied upon its DRM Report and Documents annexed thereof, but has opted not to adduce any oral evidence.

6. Documents filed by the Parties:

A. Police Report annexed as Exhibit-1, Inquest Panchnama annexed as Exhibit-2, Aadhaar Card of Sandhya annexed as Exhibit-3, Ration Card annexed as Exhibit-4 .



B. Respondent has filed the Statutory DRM Report along with the Investigation Report and document exhibited thereto as Exh.R/1.

FINDINGS

8. We 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 counsels. Our findings of on the aforesaid issues are as under.

Issues No. 1, 2 and 3

9. These three issues are being taken up together for the sake of convenience and as also these are interrelated. The applicant and the applicant witness have deposed on oath that the deceased had purchased a journey ticket in the presence of the applicant witness. This pleading of the applicant and the applicant witness name was not mentioned in the original claim application; hence to believe this contention of purchase of ticket is unbelievable. Thus, the statement of the applicant and the Applicant's witness is not trustworthy and is an afterthought.

10. At the outset, we would like to quote the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Rina Devi, Civil Appeal No. 4945 of 2018, the Hon'ble Apex Court has held ;

" Initial burden will be on the claimant, which can be discharged by filing an affidavit of the relevant facts, and the burden will then shift to the Railways, and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case based on facts found."

Hence, as per the verdict of the Hon'ble Apex court, each case has its own peculiar facts and circumstances, and there cannot be any strait jacket formula wherein the mere filing of an affidavit stating that an affiant witnessed a deceased purchasing a ticket and boarding a train would conclusively decide the case. A singular point (or a few aspects individually) may support a particular thing or happening, but to arrive at the right conclusion, the cumulative effect of all the relevant facts and circumstances in a given case is to be seen for judicious adjudication.



11. To come to right conclusion we would like to cite extracts from the following documents:

(a) Information registered at Ghoti Police Station: It recites that the deceased died in Railway accident.

(b) Inquest Panchnama: It reveals as per Police and Panches the deceased died in Railway accident.

(c) Medical Certificate of Cause of Death: The cause of death is due to Traumatic and Hemorrhagic shock due to crush injury, head injury and multiple injuries in a Railway accident.

(d) Crux of DRM Report:

1. पुलिस द्वारा बनाए गए मरणोत्तर पंचनामा में मृतक के पास से रेल यात्रा बाबत कोई भी टिकट बरामद नहीं हुई है।

2. पुलिस द्वारा तैयार किए गये घटनास्थल पंचनामा में मृतक की मृत्यु ट्रेन से टकराने के कारण होने दर्शाया है।

3. मृतक कि पत्नी संध्या गराड के पुलिस को दिये बयान के अनुसार मृतक समाधान गराड दिनांक 06.10.2021 को ड्रायव्हर (वाहन चालक) का काम करने के लिए घर से गया था।

4. मृतक के परिजनों द्वारा पुलिस को दिये बयानों के अनुसार मृतक समाधान गराड कि मृत्यु किसी अज्ञात ट्रेन की धडक (फटका) लगने के कारण हुई है ऐसा बताया।

5. घटना की सूचना पेट्रोल मैन् शिवाजी के द्वारा दी गई थी कि किलोमीटर नंबर 150/28-30 अप ट्रैक पर पाडली मे छोटी स्टेशन के बीच एक अज्ञात व्यक्ति की डेड बॉडी पड़ी है।

6. दिनांक 07.10.2021 को किमी नं 150/28-30 पर मृतक को चलती ट्रेन में गिरते हुये देखने का प्रत्यक्षदर्शी नहीं है।

7. दिनांक 07.10.2021 को किमी नं 150/28-30 पर किसी भी ट्रेन में ACP नहीं हुई है।

(e) Statement of Sandhya Samadhan Garad to the Police Marked as 'A':



"my husband Samadhan was coming from Nashik by some vehicle and reached Mundegaon shivar (area) and on the railway track railway pillar no 150 of railway up line 28/30 he has died after being hit by a running, train on the railway track, he died due to head injury in the said train accident"

(f) Statement of AW/2 Shri Kishore Sitaram Shinde on oath: The deceased purchased the journey ticket in his presence and was supposed to board the Gaya-LTT Express.

The above documents, such as Information registered at Ghoti Police Station, Inquest Panchnama and Crux of DRM Report, suggested that the deceased died in the train accident. So, these documents negate the possibility of travel by the deceased and an accidental fall from the train, as claimed in the O.A. Thus, the Applicants have failed to substantiate their claim by documentary evidence.

12. The wife of the deceased on oath as AW/1 deposed before the Bench that the signature bearing in the document at serial (e) marked as 'A' are her and she had given the statement to the Police.

13. The Applicant's witness AW/2 deposed on oath before the Bench that the deceased was supposed to board Gaya-LTT Express, which is very misleading since the Gaya-LTT Express is a weekly train which is always originating on Wednesday from Gaya Station and reaching Nashik station on Friday at 01:42 hrs., while the deceased met with the incident on 07.10.21 at 03:40 hrs., which incidentally falls on Thursday. Thus the theory of travel by the deceased as claimed by AW/2 is falsified as there is no train named Gaya-LTT Express arriving at Nashik on Thursday. Even there is no mention of this train in TSR of Ghoti Railway Station.

14. In the backdrop of above referred circumstances, there is no impediment to draw the inference that the death of victim was not caused due to fall from the moving train but he was knock-down by any train. Therefore, the respondent cannot be held responsible for the monetary liability as per the provisions of Railway Act, 1989.

15. The introduction of the name of AW/2 without pleading in OA at the evidence stage appears to be an afterthought, and his testimony suggests potential fabrication of evidence; therefore, the testimonies of AW/1 and AW/2 on their affidavits have no value in the eyes of the law. The omission about the concealment of the presence of AW/2 may lead to adverse inferences against the Applicants, as we expect transparency and proper disclosure of relevant



evidence at first instance. Thus, the Applicants have failed to substantiate their claim by oral evidence. Thus, it can be concluded that the death of the deceased was not on account of an untoward incident, but rather occurred in other than an accidental fall.

16. Now, the question of bona fide passenger status, in the present case, no journey ticket was recovered from the body of the deceased. Further, from the documentary record available, it is evidently clear that the nature of injuries sustained by the deceased does not support the claim of a fall from a running train. Additionally, the oral testimony of AW/1 cannot be accorded evidentiary weight, and the deposition of AW/2 does not inspire confidence in the context of the overall material on record.

17. Accordingly, based on the absence of a valid journey ticket and inconsistencies in witness testimony it can reasonably be concluded that the deceased was not a passenger of the train in question at the relevant time.

18. Above all, findings and discrepancies collectively indicate deliberate misrepresentation and concealment of facts, undermining the Applicant's case. The sequence of events as projected refutes the possibility of travel and a fall from a train. The whole story put forth by the claimants is under suspicion. Therefore, it can be said that the Applicants have failed to adduce cogent evidence to substantiate their claim.

19. Based on facts spelled out by the Ld. Counsels for the parties and documents on record, we are of the view, that in the present case the deceased was not a bona fide passenger and he himself was responsible for the incident and it was due to some reason other than accidental fall from running train and, therefore, this case is not covered by the definition of the untoward incident as defined u/s 123 (c) (2) of the Railways Act, 1989. Accordingly, we hold that issue no. 1 & 2 are decided in negative and against the Applicants while issue no.3 is decided in favor of Respondent as the Respondent is protected under the exceptional clause (a) to (e) of Sec. 124 (A) of the Railways Act and not liable to pay any Compensation.

Issue No.4 & 5

20. The claim has been filed by the widow and minor sons of the deceased. The parents of deceased are predeceased. In support of dependency, applicants have filed their Aadhar card. There is no dispute about the relationship of the Applicants with the deceased, and the Respondent's side has failed to counter the documentary evidence produced by the Applicants. The Applicants are the widow and 2 minor



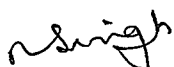
sons of the deceased, and they have every locus to file this petition under Section 16 of the RCT Act, 1987, read with Section 124A and 125 of the Railways Act, 1989.

21. Given our findings on the main issue. 1 and 2, which have been decided against the Applicants, it is held that the Applicants are not entitled to any relief or compensation as prayed for. Accordingly, we pass the following order

ORDER

22. Given the negative finding on issue no. 1 and 2, the claim application stands dismissed on the merits.

23. The Registry is directed to send a free certified copy of this judgment directly to the Respondent and the Applicant(s) at their postal address mentioned in the claim application by Registered A.D. in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

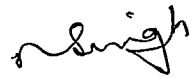

[Niva Singh]
Member (Technical)

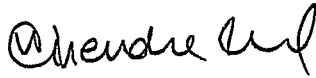

[Virendra Kumar Goyal Hon'ble Member
(Judicial), RCT/ADI @ Circuit Bench at
RCT Mumbai.

The judgment is pronounced and signed in open court today, i.e. on 29.01.2026.

Place: Mumbai

Date: 29.01.2026.


[Niva Singh]
Member (Technical)


[Virendra Kumar Goyal Hon'ble Member
(Judicial), RCT/ADI @ Circuit Bench at
RCT Mumbai.