

रेल दावा अधिकरण, गोरखपुर
THE RAILWAY CLAIMS TRIBUNAL
 गोरखपुर पीठ, गोरखपुर
GORAKHPUR BENCH, GORAKHPUR
 वाद संख्या -ओ ० ए ० -(II यू ०) / एमसीसी/217/2022
CASE No. OA (IIU)/MCC/217/2022
 श्री दीपक नाथ तिवारी, सदस्य (न्यायिक), गोरखपुर पीठ, गोरखपुर
Shri Deepak Nath Tiwari, MJ, RCT Gorakhpur Bench, Gorakhpur

PARTIES:-

1. Sangita W/o. Devram Bhor Age-47 Yrs. Occu-House wife (Wife of the deceased)
2. Priyanka D/o. Devram Bhor Age-28 Yrs. Occu - Education (Daughter of the deceased)
3. Ajinkya S/o. Devram Bhor Age-22 Yrs. Occu-Education (Son of the deceased)

R/o. 481/227, Vinayak Vasudev Chawl, N.M. Joshi Marg, Bakri Adda,
 Chinchpokli (W) Mumbai (M.S.) 400011

4. Hirabai W/o. Sakharam Bhor Age-74 Yrs. Occu-Housewife (Mother of the deceased)

R/o.: At Po. Avsari kh; Tal- Ambegaon, Dist- Pune (M.S.) 412405

.....Applicants

Versus

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

.....Respondent.

Date of Incident	: 15.04.2022
Date of Filing	: 20.10.2022
Date of Argument	: 31.12.2025
Date of Decision	: 31.12.2025

Learned Counsel for Applicant - Mr. Shreyas Mahendra Chaudhari (virtual)
 Learned Counsel for Respondent- Mr. Deliah Fernandes (virtual)

(This case has been assigned to R C T Gorakhpur Bench to dispose of after hearing the argument of both parties through hybrid mode vide order of Hon'ble Chairman RCT Principal Bench Delhi)

CASE NO- OA/IIU/MCC/217/2022



JUDGMENT

Shri Deepak Nath Tiwari Member (Judicial)

1. This is an application filed by the Applicants (dependents of the deceased) under section 16 of the Railway Claims Tribunal Act, 1987 against the Respondent Railway administration seeking compensation for the death of **Devram Sakharam Bhor S/o Sakharam Bhor** (hereinafter referred to as "**the deceased**"), who allegedly died in an untoward incident. The applicants, who have filed this OA originally, are said to be **mother, wife, daughter & Son** of the deceased.

CASE OF APPLICANTS

2. The applicants have sought compensation related to an untoward incident defined u/s 123(c) (2) of the Railways Act, 1989. According to their pleadings mentioned in the instant OA, on 15.04.2022, the deceased, Devram s/o Sakharam Bhor, was travelling from Chinchpokali to Khar Road. At the relevant time, the deceased was serving as a Police Constable at Nirmal Nagar Police Station, Mumbai City, and was regularly commuting from Chinchpokali to Khar Road in connection with his official duties.

In pursuance thereof, for undertaking the said journey, the deceased had purchased a valid railway return journey ticket of an unknown local train on 14.04.2022, bearing Ticket No. UFL-24875706, for travel from Chinchpokali to Khar Road, for an amount of Rs. 10/- (single). The deceased retained the said



ticket with him and thereafter boarded the train. Thus, the deceased was a bona fide passenger of the Railways.

The valid railway journey ticket so purchased by the deceased was recovered at the time of drawing of the panchanama, and the same forms part of the Part-II Index annexed with the claim application.

While the deceased was travelling in the said train, there was heavy rush in the compartment. Owing to the heavy rush and a sudden jerk of the train, the deceased lost his balance and accidentally fell from the running train, thereby sustaining grievous head injuries. He succumbed to the said injuries before he could be administered medical treatment.

Subsequent to the incident, the Station Master of Chinchpokali Railway Station issued a written memo to ASI Ashok J. Jadhav of Dadar Railway Police Station. The police officials proceeded to the spot and shifted the injured to Sion Hospital; however, upon examination, the attending doctor declared the deceased brought dead before commencement of medical treatment.

2.1 The applicants have sought a compensation amount to the tune of Rs. 8,00,000/- along with interest.

2.2 The applicant AW-1 Sangita W/o. Devram Bhor filed her own examination in chief on affidavit. She appeared before this Tribunal on 06.12.2024 for cross examination. She was cross examined and discharged. She



has already filed i.e. Ticket, Memo, Accidental Death News, Letter to Dadar Rly. Pol. Stn, Report from Sion Hosp; Mumbai, Spot Panchnama, Inquest Panchnama, P.M. Report, Dead body examination form, Receipt of possession of dead body, Statement of Sangita Devram Bhor, Death Certificate, Death Certificate of father of deceased, Ration Card, Photosheet, Aadhar card and Bank passbook. She has proved i.e. Death Certificate of father of deceased, Death Certificate of Devram Sakham Bhor, Aadhar card Sangita Devram Bhor, Aadhar card Priyanka Devram Bhor, Aadhar card Ajinkya Devram Bhor, Ration Card. evidence which have been marked as Exht A12 to A17.

CASE OF RESPONDENT

3. Notice regarding the claim application was issued against the respondent. Learned counsel for respondent responded by submitting a written statement along with DRM's report, (a) Form 01 & 02 (b)Memo (c)Ticket (d)Examination Report (e)Naksha Nazri (f)Spot Panchnama (g)Inquest Panchnama (h)Track Fit Certificate (i)Ticket Verification Report (j)Police Letter (k)TSR (l)DSR (m)Statement of Shyam Surat (n)Statement of Vikrant Kumar (o)G.D. (p)Statement of Ajinkya Devram (q)Statement of Sangita Devram Bhor.

4. The case of respondent is that the deceased was not a passenger on the train, and alleges that the applicants, in collusion with the police, fabricated evidence by procuring a railway ticket from another source to falsely portray that the deceased had undertaken a rail journey as bonafide passenger and fallen from train. It has been sated in written statement that there was no injury on the dead



body of the deceased which suggest a case of falling from train. The injuries recorded in the post-mortem report, suggest that the deceased was struck by a train. Based on these established facts, the incident does not qualify as a case of falling from a train, and therefore does not fall within the scope of an "untoward incident" as defined under Section 123(c)(2) of the Railways Act.

ISSUES

5. On 05.02.2024, the following issues were framed in terms of Rule 21 of Railway Claims Tribunal (Procedure) Rules 1989;

- 1- Whether the deceased was travelling on valid railway ticket and was a bonafide 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?

FINDINGS

6. Let us quote the provision of section 123(c) (2) of the Railways Act, 1989, which reads as "Untoward incident" means

"The accidental falling of any passenger from a train carrying passenger."

From the above provision, it is clear that three ingredients are necessary to prove "Untoward incident" i.e., (1) Injured/deceased must be a passenger in terms of section 2 (29) Railways Act (2) There must be accidental falling from train (3) Train from which, such accidental falling occurred, must be passenger carrying train.

AND

It is also essential to establish that the facts of the case do not fall within the exception clauses provided under the proviso to Section 124A of the Railways Act, which stipulates that no compensation shall be payable by the railway administration if the death or injury of a passenger is caused due to—

- (a) suicide or attempted suicide,
- (b) self-inflicted injury,
- (c) the passenger's own criminal act,
- (d) any act committed in a state of intoxication or insanity, or
- (e) natural causes, disease, or medical/surgical treatment unless such treatment becomes necessary due to injuries sustained in the untoward incident.

7. Issues No. 1, 2 and 3 — Whether the deceased was travelling on valid railway ticket and was a bonafide passenger of the train, in question, at the relevant time?, 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? and Whether the Respondent has been able to 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? are being taken up.

To decide the above issued, the following documentary evidence are important;

First Information about incident: An unknown passenger informed Station Manager Chinchpokli on 15/04/2022 at 08:25 AM that a man is lying injured in between Chinchpokli and Curry Road at km 05/114-116.

Observation of ASI GRP (Dadar) Sheikh and RPF (Bhaykhala) Shyam

Surat, who reached at place of incident: The injured person who was found near the gutter ahead of PF No.1 close to the Slow line Near foot over bridge on Kalyan end. The said person had injuries on his right leg and it was bleeding profusely. He was taken to Sion Hospital for medical treatment, wherein, while operating him the on duty doctor declared him dead.

Whether the deceased was a bonafide passenger; In the spot panchnama prepared by the police, it is shown that a railway ticket No. UFL 24875706 was found from the deceased,



BUT

- The said ticket has not been seized by the police in the seizure panchnama nor are the signatures of the panchas on the said ticket.
- The RPF staff who attended the spot has clearly stated in their statement that the **injured person was not found carrying any valid railway ticket or pass.**
- It is said that the deceased was found in gutter, therefore it is unbelievable that rail journey ticket was found on spot in good condition.
- On perusal of verification of the ticket, it is clear that it was issued **for two adults**, but who was other passenger is unknown to case record as nothing has been explained in OA regarding the 2nd passenger with the deceased.
- The ticket verification report reveals that the said ticket was issued on 14.04.2022 at 19:15 hours from Chinchpokali Railway Station, whereas the deceased was found in an injured condition ahead of Platform No. 1 of Chinchpokali Railway Station. From these circumstances, an inference is sought to be drawn that, had the deceased actually travelled on the basis of the said ticket, the alleged fall would have occurred within a short time of its purchase and, in any event, on 14.04.2022 itself. However, the deceased was noticed only on the following day, i.e., on 15.04.2022 at about 08:25 hours, which gives rise to a serious doubt regarding the



deceased having travelled with the alleged ticket and indicates that ticket was planted.

- TSR reveals that from the time of purchase of ticket till the time when the deceased was discovered in injured condition, **68 trains through slow track** had passed from near the place of incident, but no motorman, train manager saw this incident.
- It has been alleged that there was heavy rush in the compartment and that, owing to such rush and a sudden jerk of the train, the deceased lost his balance and accidentally fell from the running train. However, in such circumstances, it would be reasonable to expect that fellow passengers, including the co-passenger—particularly when the ticket itself indicates purchase for two passengers—would have raised an alarm, pulled the Alarm Chain Pull (ACP), or otherwise informed the railway authorities. It is improbable to presume that basic human empathy and civic responsibility would have been wholly absent. Significantly, there is no evidence on record to show that any co-passenger raised an alarm, activated the ACP, or informed the railway authorities about the alleged incident. This conspicuous absence of any such contemporaneous reaction casts serious doubt on the claim of an accidental fall from the train and materially undermines the credibility of the version put forth. It further casts grave doubt on the assertion that the deceased was travelling with the alleged

ticket at the relevant time and unerringly indicate that ticket has been planted.

- The letter of Letter from Nirmal Nagar Police station informed that Devram Sakharam Bhor(deceased) was working in Nirmal Nagar Police and his duty was from 20.00 hrs on 13.04.22 to 09.00 hrs on 14.04.22 and from 20.00 hrs on 14.04.22 to 09.00 hrs on 15.04.22 but he did not report for duty on 14.04.2022. It shows that the deceased had no occasion to purchase ticket for Khar Road on 14.04.2022 at 19:15 because he had not taken leave on 14.04.2022 and had to join duty on that day at 20 hours. This fact also unerringly communicate that the ticket was planted.

On the basis of the aforesaid analysis of the evidence on record, I have arrived at the conclusion that there is considerable substance in the contention advanced by the learned counsel for the respondent that the applicant, in collusion with the police authorities, has fabricated evidence by procuring a railway ticket from an extraneous source, with the intent to falsely project that the deceased had undertaken a railway journey as a bona fide passenger.

For the reasons mentioned in foregoing paragraphs, I am of the considered view that ticket for deceased has been planted and on the basis of planted ticket the instant concocted case has been fabricated. Since fraud is involved, in the eye of law such documents have no existence.

In a case **M/S. Munjal Showa Ltd. Vs Commissioner Of**

Customs & others decided on **23 September, 2022** the

Hon'ble Apex court have been pleased to hold that

FRAUD VITIATES EVERYTHING.

From the above facts and circumstances, it is clear that the applicant has not come with clean hand. In the landmark case of Ramjas Foundation and another vs. Union of India and others, **(2010) 14 SCC 38, Hon'ble the Apex Court has univocally held as under;**

21. The principle that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief

7.1 With regard to the other essential ingredient, i.e., the aspect of falling from the train, the following facts assume significance;

- There is admittedly no eye witness to incident.
- Neither so-called co-passenger particularly when the ticket itself indicates purchase for two passengers nor other fellow passenger would have raised an alarm, pulled the Alarm Chain Pull (ACP), or otherwise informed the railway authorities, which casts serious doubt on the claim of an accidental fall from the train.
- The post-mortem report records the presence of lividity (livor mortis) on the back and buttocks, sparing pressure areas, which medically indicates that death had occurred approximately 8 to 12 hours prior to the autopsy.

Since the post-mortem examination was conducted on 15.04.2022 at 3:30

PM, a reasonable inference is that the death occurred between about 3:30 AM and 5:30 AM on the same day. This medical finding clearly contradicts the version set out in the OA that the deceased was travelling by train on the strength of a ticket allegedly purchased on 14.04.2022 at 19:15 hours from Chinchpokali Railway Station, particularly when the dead body was recovered ahead of Chinchpokali (the station where ticket was allegedly purchased) in a gutter.

- The body was found in gutter and not beside railway line.
- The ante-mortem injuries observed in PM report i.e., 1. Lacerated wound of size 8cm x 1cm x bone deep pr on left parieto temporal region, margins irregular. 2. Lacerated wound of size 2cm x 0.8cm x bone do present just below injury no 1, margins irregular. 3. Multiple abrasion of sizes varying from 2cm x 0.5cm 4cm x 1cm resent on lateral aspect of left side of chest red. 4. Degloving injury of size 15.5cm x 5cm x bone deep present on medial half of right foot on dorsal aspect, underlying tissues, nerves, vessels exposed, great toe crushed and expose 5. Left shoulder joint shows posterior dislocation. 6. Displaced fracture of left mandible present in middle one third region. 7. Depressed fracture of size 4.5cm x 1.5cm present un left parieto temporal region corresponding to injury number-1 8. On left side, intercostal hematoma present in rib no 1,2,6,7,8,9,10.

The injuries found during autopsy coupled with other facts and circumstances of the case are being analysed in the light of following scientific reason and ratio of case laws;

Scientific theory: Speed of any passenger inside train remains same as the speed of the train.

After falling from moving train, gravitation force pulls the passenger toward earth and friction of air starts retarding the speed of body of passenger. Further, a person falling of a bogie of running train from the exit would have a trajectory which would drop him, if not a feet or two away from the train, at least 6 to 8 inches from the train and the forward motion would throw the person forward and not laterally. In a case, titled as Dharambiri Devi & others Vs. Ministry of Railways & others, 149 (2008) Delhi Law Times, 435 (Delhi High Court), wherein Hon'ble Mr. Justice Pradeep Nandrajog of Hon'ble Delhi High Court in para Nos. 14 of the judgement observed as under:

"14. I may further note that the body of the deceased being cut into two halves is not possible if the deceased fell out of the bogie through the exit if the train received a sudden jerk. A person falling of a bogie from the exit would have a trajectory which would drop him, if not a feet or two away

aforesaid discussions, it has been concluded by the learned Tribunal that in these circumstances, it is not possible that body will come under the wheels and get crushed.

The above observation of RCT in a case Smt. Sumitra Mishra And Ors. Vs Union Of India, has been affirmed in a case reported in AICC 2017(1) 361Alld. by Hon'ble High Court of Judicature Allahabad.

Therefore, there **shall be no possibility** of crushed injuries in the case of falling from running train **between two railway stations.**

In a case Tara Chand Mathur Vs Union of India through General Manager Northern Railway, the Division Bench comprising Hon'ble Mr. justice V.C. Gupta and Hon'ble Mr. Justice D. P. Singh of Hon'ble High Court of Judicature at Allahabad, Lucknow Bench Lucknow have been pleased to hold that "A perusal of the post mortem report reveals that the body of the deceased was cut into two pieces. In case a person fell down from the train ordinarily, the body does not cut into two pieces. Of course, submission of the appellant's counsel would have carried weight in case the body of the deceased would not have been cut into two pieces and

injuries would have been only of abrasions, contusions and laceration etc."

As per medical jurisprudence : Most often Crush Injury happens when part of the body is squeezed between two heavy objects.

7.3 On being analysed the facts and circumstances of the case in the light of above mentioned scientific reasons and ratio of case law, I found the following facts ;

- (i) The body was not found beside railway track rather it was found in gutter. This fact ordinarily rules out the case of falling from train.
- (ii) Crushed injury found leg/foot also rules out the case of falling from train as due to falling from train as the body will not come on the tracks latterly under fast moving wheels and thus the crush injury mentioned in this case is not possible due to falling from train.
- (iii) Rail journey ticket was not recovered from the possession of the deceased at the time of inquest panchanama and it has already opined that the ticket annexed with the case-record has been found planted.

DRM's report, on the basis of the records, evidences and statements collected by the investigator during the investigation, it has been concluded that मृतक देवराम सखाराम भोर उम्र-53 वर्ष पता-रूम न 227 विनायक वासुदेव चाल, एन एम जोशी मार्ग बकरी अड्डा चिंचपोकली वेस्ट मुंबई यह दिनांक 15.04.2022 को चिंचपोकली करीरोड रेल्वे स्टेशन के मध्य KM No-05/114-116 पर नाली में जखमी हालत में पड़ा मिला था, उक्त के जखमी होने की घटना का कोई



प्रत्यक्षदर्शी नहीं है तथा नाही जाँच के दौरान सामने आया तथा घटना की जानकारी किसी मोटरमन या ट्रेन मैनेजर द्वारा नहीं दी गयी और आरपीएफ़ स्टाफ ने स्पष्ट रूप से बताया की घटनास्थल पर जखमी व्यक्ति के पास कोई भी टिकट या पास नहीं मिला था।

8. For the reasons stated above, I am of the considered view that the death of the deceased does not fall within the scope of an 'untoward incident' as defined under Section 123(c)(2) of the Railways Act. This is because the deceased was neither established to be a bona fide passenger of the train, nor was it proved to be a case of accidental fall from a train. Thus issue no 1 and 2 are decided against the applicants. There for there is no need to decide issue number 3.
- 9.. Since issue no 1,2 have been decided against the applicants and there is no need to issue number 3. Therefore, there is no need to decide issue no 4 and 5.
10. The OA stands **dismissed**. No order as to cost,


31.12
Deepak Nath Tiwari
Member Judicial
R C T Gorakhpur Bench
Gorakhpur

Dated 31.12.2025