

**BEFORE THE RAILWAY CLAIMS TRIBUNAL,
MUMBAI BENCH, MUMBAI**

CORAM: Mr. Alok Upasani, Member (Judicial)

Ms. Niva Singh, Member (Technical)

Claim Application No: OA (II U) / MCC / 268 / 2016

- 1) Smt Hamida Bano W/o Malik Shaikh,
Aged 38 years (Mother of the deceased)
- 2) Mr Malik Shaikh,
Aged 49 years (Father of the deceased)

R/At: Room No.5, Sattarmiya Chawl,
Ghaswala Compound, Indira Nagar,
Jarimari, K.A Road,
Sakinaka,
Mumbai.

... APPLICANTS

*(Applicant No. 2 Malik Shaikh, father of the deceased is impleaded in the array
of dependents of the deceased vide order dated 08.09.2025)*

Versus

Union Of India,
Through the General Manager,
Central Railway, CSMT,
Mumbai.

... RESPONDENT

Appearances:

Mr. V K Mazgaonkar

:Advocate for Claimant

Ms. D Fernandes

:Advocate for Respondent

Date of Institution: 08.05.2015

Date of Judgment: 29.09.2025

JUDGEMENT

1. This Claim Application is filed by the Applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 123 (c) (2) & Section 124-A of the Railways Act, 1989 for compensation arising out of an alleged untoward incident occurred on 23.02.2014 involving death of Kumar Sohail S/o Malik Shaikh (hereafter

referred as deceased). The Applicants claim that, being parents of the deceased, they are the dependents of the deceased Kumar Sohail S/o Malik Shaikh.

2. There was a delay of about 4 months in filing the Claim Application which was condoned vide Tribunal's order dated 19.10.2015.

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

3. It is stated that, the deceased Kumar Sohail S/o Malik Shaikh, a resident of Sakinaka, was unmarried and a student. It is alleged that on 23.02.2014, the deceased Sohail was returning from Mumbra to Kurla Railway Station along with his friend Mr Sayyed Fajjal Anwar Alam. When the train reached Thane Railway Station, near KM No. 32/04, due to forcible jerk, the deceased lost his balance and he accidentally fell down from the running train and sustained serious injuries. He was rushed to Thane Civil Hospital and later was shifted to Sion Hospital for medical treatment, wherein, he succumbed to his injuries on 24.02.2014. The Applicants have alleged that on the day of incident the deceased was travelling on the strength of a valid 2nd class Railway Return Ticket from Kurla to Mumbra Railway Station dated 23.02.2014. However, the said ticket was lost in the incident. It is therefore contended that the deceased was a bona-fide passenger and died, in an untoward incident occurred on 23.02.2014.

4. 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's report pertains to investigation conducted by IPF/RPF/Thane, accompanied with other relevant police papers marked as "R-1".

It has been contented in DRM's Report that:

"On 23.02.2014 at about 16.45 hrs SS/Thane Shri R.B. Bhagat, issued a memo to on duty GRP/Thane, HC Shri Pawar, that one unknown person has fallen down from unknown local train and is in injured condition near KM no. 32/04 between Thane and

Mulund station. On receipt of memo, GRP/Thane attended the spot and carried the victim to Civil Hospital, Thane for treatment. On duty doctor checked the victim and referred him to Sion Hospital, Mumbai. On 24.02.2014 victim was declared dead. GRP/Thane registered the case vide ADR No. 50/14 dated 24.02.2014 u/s 174 of Cr.P.C.

It is observed that GRP/Thane has not mentioned any Railway Pass or Railway Ticket found with the body of victim. As per documents received from GRP/Thane and SS/Thane it is observed that Sohal Malik Shaikh (deceased) was travelling near the door of train in a negligent and careless manner. He lost his grip and fell down. Travelling at the gate of train is risky and punishable u/s 137 & 156 of Railway Act. There is no negligency of Railways. "

5. In view of pleading of both parties, and relevant documents produced on record, this Tribunal framed the following issues on 08.07.2016 for just and proper adjudication of Claim Application on merit within ambit of law.

1. *Whether the deceased was a bonafide passenger of the train, in, question, at the time of accident?*
2. *Whether the deceased suffered injuries and died in an untoward incident while travelling in the train in question?*
3. *Whether the Respondent is protected under the exceptional clause of Sec. 124 (A) of the Railways Act and not liable to pay any compensation?*
4. *Whether the applicants are the only dependents of the deceased?*
5. *Relief?*

6. That, in order to establish the claim, the Applicant No.1 Hamida Bano W/o Malik Shaikh, mother of deceased Kumar Sohail S/o Malik Shaikh stepped into the witness-box and filed her Affidavit dated 13.06.2023 in lieu of her examination-in-chief on record. She produced the relevant documents comprising:

SN	Documents	Exhibit
1.	SM Memo	A-1

2.	Police Report dated 23.02.2014	A-2
3.	Police Report dated 24.02.2014	A-3
4.	Inquest Panchnama	A-4
5.	Statement of Malik	A-5
6.	Cause of Death Certificate	A-6
7.	Affidavit cum NOC of Malik	A-7
8.	Ration Card	A-8
9.	Aadhar card of Awatari	A-9
10.	PAN card of Hamida Bano	A-10

7. The Applicant No.1 Hamida Bano W/o Malik Shaikh (AW-1), has averred in her affidavit dated 13.06.2023 that, on 23.02.2014, her deceased son, Sohail was returning from Mumbra to Kurla Railway Station along with his friend Mr Sayyed Fajjal Anwar Alam. When the train reached Thane Railway Station, near KM No. 32/04, due to forcible jerk, her deceased son lost his balance and he accidentally fell down from the running train and sustained serious injuries. He was rushed to Thane Civil Hospital and later was shifted to Sion Hospital for medical treatment, wherein, he succumbed to his injuries on 24.02.2014. She has further stated that her deceased son was travelling on the strength of a valid 2nd class Railway Return Ticket from Kurla to Mumbra Railway Station dated 23.02.2014. However, the said ticket was lost in the incident.

In cross-examination of Applicant No. 1 Hamida Bano W/o Malik Shaikh, she has stated as under:

"The deceased Sohail was my son. He was 14 years old. He was a student. I have one more daughter and one more son. My husband Malik Shaikh is working as a helper. I am house wife. I have not made my husband party to the claim as he does not want share. However, I am undertake to make him party on the next date of hearing. Sayyed Faijal is friend of my deceased son. He is staying in my neighbor. I do not know the whereabouts of Sayyed Faijal as on date. I do not know who is Aman Sayyed and Navi Sarver Ansari. Police has not recorded my statement. My husband and myself is staying separately on different address. On the day of incident my deceased son was staying with my husband. I have no personal knowledge of the incident as well as purchase of ticket. Friend of my deceased son Sayyed informed me about the incident at about 4.00

pm. After getting information about the incident I went to Sion hospital at about 6.00 pm. When I met my son Sohail he was not conscious but was alive. He sustained head injury."

During cross-examination, it was suggested on behalf of Respondent - Railway, that the deceased was not a bonafide passenger and the incident occurred due to the own negligence of the deceased. It was further suggested that she was deposing falsely in the matter. But, the AW-1 Hamida Bano W/o Malik Shaikh turned-down all these suggestions put forth on behalf of the Respondent.

8. The Applicant closes their evidence vide pursis dated 13.07.2023.

Respondent did not adduce any oral evidence in the matter and closed its evidence on 06.11.2023.

9. During the arguments, the Ld. Counsel for Applicants submitted that AW-1 Hamida Bano W/o Malik Shaikh, has filed her affidavit to establish that the deceased was travelling as a bonafide passenger and having a second class return ticket, however, the said ticket was lost in the incident. Further, the death of the deceased occurred due to accidental fall from running train and thus, the said incident falls within the purview of untoward incident.

In defiance, contesting the issue, referring the DRM's Report, Ld. Counsel for Respondent alleged that the deceased was not a bonafide passenger as no ticket was recovered during Inquest Panchnama. It is argued that the incident occurred due to deceased's own negligence while travelling on the door/footboard of the train. Thus, the incident involving the death of the deceased cannot be termed as an untoward incident and hence, Railway is not responsible for any compensation.

10. We have heard the Ld. Counsels appearing for the Applicants and Respondent. We have also gone through the entire

documents produced on record. Now, before embarking into the merits of the matter, it would be profitable to set-forth the relevant provisions of the Railway Act 1989 as below:

Sec. 2 (29) defines "passenger" as under:

"passenger" means a person travelling with a valid pass or ticket".

Sec. 123(c)(2) defines "untoward incident" as under:

"(c) "untoward incident" means-

xxxxxx

(2) the accidental falling of any passenger from a train carrying passengers."

Sec. 124-A of the Railways Act is also useful to quote as under:

124-A. Compensation on account of untoward incidents.-

"When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident :

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to -

- 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 surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.*

Explanation - For the purposes of this section, "passenger" includes-

- i) a railway servant on duty; and*

- ii) *a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.*

In the backdrop of aforesaid legal provisions, we 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, 2 & 3

11. As these issues are inter-connected and inter-dependent, for the sake of brevity and better appreciation, the same are being dealt together.

12. We have carefully perused SM/Thane's Memo, wherein, it is stated that *"one unknown person aged around 17 years has fallen down from unknown Local train on down local line between Mulund and Thane near KM No. 32/04 and seriously injured on head. Rendered first aid and sent him to Thane Civil hospital."* Police and Panchas in Police Report and Inquest Panchnama have also opined that the deceased had fallen down from an unknown train. We have also perused statement of Mr Malik Mustaq Ali Shaikh, father of the deceased, dated 24.02.2014, in which he has stated that on 23.02.2014, his deceased son had informed him that he was going to Kurla at uncle's place at Dargah and left home at around 09:00 hours. At 17:00 hours, his son's friend's brother came home and informed him that his son had met with a railway accident. The DRM's Report filed by Respondent accepts that the deceased had fallen down due to his own negligence while travelling near the door of the train, got injured and died subsequently. Except negligence of deceased, nothing else has been averred by the Respondent in their pleadings or brought on record.

13. The plea of negligence is not accepted in view of this issue already settled by Hon'ble Apex court in the case of *Jameela & Ors*

vs. Union of India 2010 ACJ 2453(SC), Hon'ble Supreme Court has concluded as under:

"The manner in which the accident is sought to be reconstructed by the Railways, that the deceased was standing at the open door of the train compartment from where he fell down, is called by the Railways itself as negligence. Now negligence of this kind which is not very uncommon on Indian trains is not the same thing as a criminal act mentioned in clause (c) to the proviso to Sec. 124 - A. A criminal act envisaged under clause (c) must have an element of malicious intent or mens-rea. Standing at the open doors of the compartment of a running train may be a negligent act, even a rash act but, without anything else, it is certainly not a criminal act. Thus, the case of the Railways must fail even after assuming everything in its favour."

Since the provision for compensation in the Railways Act is a beneficial piece of legislation, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, the interpretation i.e. the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred.

In view of above discussion and considering the fact that the provision for compensation for Untoward Incident under Section 123(c) read with Section 124(A) of Railways Act is a beneficial piece of legislation, it is concluded that the deceased had fallen down from a train between Thane to Mulund Railway station while travelling from Mumbra to Kurla Railway station.

14. 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 the liability to pay the compensation only when the said injury comes within the exception clauses (a) to (e) of the proviso to Section 124-A of the Railways Act, 1989. (Supra)

15. In this case, no ticket was recovered from the possession of the deceased. However, Hon'ble Supreme Court in case of Union of India Vs Rina Devi in Civil Appeal No. 4945 of 2018 has dealt with the issue "Burden of proof when ticket was not recovered in an untoward incident". In the said judgment the burden casted upon the applicant was not so heavy in comparison with the Respondent to rebut the presumption. The relevant portion of the judgement in case of Union of India V/s Rina Devi (Supra), is reproduced as under:-

"Mere presence of a body on the Railway Premises need not be conclusive to hold the injured or deceased a bonafide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bonafide passenger. Initial burden will be on the claimant which can be discharged by filing an 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. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly".

Hon'ble Apex Court in the case of Union of India vs. Rina Devi (Supra) has clearly laid down that initial burden of claimant can be discharged by filing affidavit with relevant facts and the issue can be decided on the facts shown or attending circumstances on case to case basis.

16. In this case the issue of falling down of the deceased from a train has been established and therefore, his travel from a train is undisputed. Applicant No. 1 Hamida Bano W/o Malik Shaikh (Mother of the deceased) has filed her Affidavit to discharge light burden casted on Applicants in regard to possession of a valid Railway Ticket by the deceased at the time of incident stating that the deceased was always travelling with a valid ticket and no evidence to the contrary was produced from Respondent side for victim being unauthorised or without ticket traveller. Therefore, considering possibility of loss of Railway Ticket during post incidence scenario, we conclude that the deceased was having

possession of and travelling with a valid Railway Ticket as a bonafide passenger at the time of incidence.

Thus on the basis of the facts and circumstances of this case and preponderance of evidence on record, we have come to the conclusion that the deceased Kumar Sohail S/o Malik Shaikh, on 23.02.2014, while travelling as a bonafide Railway passenger from Mumbra to Kurla Railway station, had accidentally fallen down from the running train in between Thane and Mulund Railway station, sustained serious injuries and died. 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.

Accordingly, Issues No. 1 & 2 are decided in affirmative, in favour of Applicants and Issue No. 3 against the Respondents.

ISSUE NO. 4

17. The Applicants have produced Aadhar Card, PAN Card & Ration Card and Cause of Death Certificate of the deceased along with Affidavit to establish their identity and array of dependents of the deceased. It is not in dispute that the Applicant No. 1 and 2 are the parents of the deceased. The Respondent also did not put this factual aspect in controversy. The Applicant No. 2 Mohammad Malik Shaikh has deposed on 08.09.2025 that he is relinquishing and surrender his share, if any, in favour of Applicant No. 1 Hamida Bano W/o Malik Shaikh. Therefore, there is no impediment to hold that Applicant No. 1 is the dependent of victim Kumar Sohail S/o Malik Shaikh entitled for entire compensation amount, as contemplated under sec. 123 (b) of Railways Act, 1989.

Accordingly, Issue No. 4 is decided in affirmative and in favour of Applicants.

ISSUE NO. 5

18. Since the incident dated 23.02.2014 leading to death of the deceased is an "untoward incident" as defined under Section 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, (amended in 2016) the applicants are entitled for compensation of Rs. 8,00,000/- (Rupees Eight Lakhs only) from Respondent - Railway on the day of incident.

Since the date of incident is prior to 01.01.2017, in view of Para 15.4 of the Hon'ble Supreme Court Judgement, passed in the case of Union of India Vs. Rina Devi, cited in Appeal No. 4945 of 2018, dated 09/05/2018, the aforesaid dependents of the deceased, under Part-I of the Schedule of the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990, as amended in 2016, is entitled to Rs. 4,00,000/- (Rupees Four Lakh only) plus 9% interest or Rs. 8,00,000/- (Rupees Eight Lakh only) (Revised compensation w.e.f. 1st Jan 2017) whichever is higher. In this case, as Rs. 4,00,000/- (Rupees Four Lakh only) plus 9% interest is higher, therefore, Rs. 4,00,000/- (Rupees Four Lakh only) plus 9% interest from the date of the incident to the date of the award, is awarded as a compensation to the Applicants on account of death of deceased Kumar Sohail S/o Malik Shaikh 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. 4,00,000/- (Rupees Four Lakh only) plus 9% interest from the date of the incident to the date of the award**, to the Applicants as a compensation.
- 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 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 Applicant and to protect the amount from being frittered away. The amount of Rs.4,00,000/- (Rupees Four Lakh only) shall be disbursed in the following manner:

1. Applicant No. 1 Hamida Bano W/o Malik Shaikh shall be permitted to withdraw Rs. 80,000/- (Eighty Thousand only) from the total awarded compensation respectively in her respective Saving Bank Accounts through NEFT/RTGS, from the total awarded compensation amount of Rs. 4,00,000/- (Rupees Four Lakh) only plus pro-rata interest.
2. The balance amount of Rs 3,20,000/- (Rupees Three Lakh and Twenty Thousand) only, be kept in the name of Applicants No. 1 in Annuity account in any nationalised Bank located nearer to the permanent residential address of the Applicant, 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 Annuity Scheme / FDR of Nationalized Bank.
Applicant No. 1 Hamida Bano W/o Malik Shaikh	Rs. 80,000/- (Rupees Eighty Thousand only)	Rs. 3,20,000/- (Rupees Three Lakh and Twenty Thousand only) plus pro-rata interest in Annuity scheme on similar line as MACAD with monthly payment of Rs. 10,000/- (Rupees Ten Thousand Only) in Savings Bank account of the awardee till whole deposit is exhausted.

3. The Claimant is directed to open an individual Savings Bank Accounts in any Nationalized Bank located nearer to the place of permanent residence of Applicant. These Savings Accounts will be linked with Annuity (term) Deposit Account on similar line as of MACAD (Motor Accident Claim Annuity (Term) Deposit Account).
4. The Bank is hereby directed not to permit any joint name(s) to be added in the Savings Bank Accounts or Annuity 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 Passbook issued in favour of Applicant to the effect that no Cheque 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 Claimant without the permission of this Tribunal.
5. 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.
6. Original Annuity Scheme shall be retained by the bank concerned. However, the statement containing Account number, Annuity amount, rate of interest and monthly payment schedule shall be furnished by Bank to the Claimants. The

Annuity amount of the Annuity Deposit be credited by ECS in the linked Savings Bank Account of the Claimants.

7. The Bank shall not grant any loan, advance, withdrawal or premature discharge on the Annuity Deposits without permission of this Railway Claims Tribunal. Annuity scheme shall be governed by directions of G.S.R. 347 (E) dated 03.06.2020 issued by Ministry of Railway. This should be strictly implemented by the parties concerned. For better appreciation of the Scheme, GSR may be referred.
8. The Claimants are directed to produce the original Bank Passbook with the necessary endorsement as well Aadhaar Card and PAN Card before the Additional Registrar, RCT, Mumbai. ADR shall take the following documents on record from the Claimants before releasing the awarded amount.
 - (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.
9. There shall be no order as to cost.
10. The certified copy of this Judgement be given to parties free of cost.

Judgement pronounced on 29th September, 2025, in open court.

Niva Singh
Member (Technical)

Alok Upasani
Member (Judicial)