

**BEFORE THE RAILWAY CLAIMS TRIBUNAL,
MUMBAI BENCH, MUMBAI
Claim Application No: OA (II U) /MCC/2017/45**

1. Smt. Durgavati Vanraj Valvi
Age: 24 years,
(Widow of the deceased)
2. Baby. Saraswati Vanraj Valvi
Age: 08 years,
(Minor Daughter of the deceased)
3. Baby. Parvati Vanraj Valvi
Age: 05 years,
(Minor Daughter of the deceased)
4. Master. Shivram Vanraj Valvi
Age: 03 years,
(Minor Son of the deceased)
5. Smt. Shivubai Tukaram Valvi
Age: 50 years,
(Mother of the deceased)
R/at: Mahalkadu, Tal- Navapur,
Dist- Nandurbar, State of Maharashtra. ... APPLICANT(s)

Versus

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

Appearances:

Mr. D. V. Sadvilkar : Advocate for Claimant
Ms. Rupali Nayak : Advocate for Respondent

Date of Institution: 09.06.2015

Date of Judgement: 03.10.2025

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

JUDGEMENT

1. This Claim Application is filed by the applicant 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 Railway involving a death of deceased Vanraj Tukaram Valvi.

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

2. It is stated that, Vanraj Tukaram Valvi, (hereafter referred as deceased), aged 28 years, resident of Nandurbar was doing labour work. The Applicant No. 1 is the widow of the deceased, Applicant No. 2, 3 & 4 are his children and Applicant No. 5 is his mother. On 26.05.2013 the deceased was travelling from Surat to Khatgaon Railway station along with his friend. When the train was in between Chinchpada and Khatgaon railway station at Km 120/4 due to rush and push from other passengers the deceased accidentally fell down from train. The Applicant stated that the deceased was in possession of a second class ticket from Surat to Khatgaon Railway Station. The ticket was purchased by him but, it was lost in the untoward incident. It has been contented that the deceased was the bona-fide passenger and died in untoward incident occurred on 26.05.2013.

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 report accompanied with other relevant police papers marked as "R-1". It has been contended that from the scrutiny of above document it is found that SS and GRP mention in their memo and inquest panchanama that the cause of incidence was deceased knocked down by AK-BCNE, sustained injured and died on the spot. However the incidence took place due to his negligence and carelessness for which Railway is not responsible. Trespassing is an offence vide 147 Railway Act. GRP did not found any Railway Travelling Authority from the possession of deceased during the personal search, hence he is not a bonafide Railway passenger. Compensation should not be granted to the claimant in this case. The monetary liability cannot be fastened on the Railway for the alleged incident.

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

Issues	
1.	Whether the deceased was a bonafide passenger of the train, in question, at the time of accident?
2.	Whether the deceased suffered injuries & 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?

5. That, in order to establish the claim, the Applicant No. 1 Smt. Durgavati Vanraj Valvi, stepped into the witness-box and filed the Affidavit in lieu of her examination-in-chief on record. She deposed that, on 26.05.2013 the deceased was travelling from Surat to Khatgaon Railway station along with his friend. When the train was in between Chinchpada and Khatgaon railway station at Km 120/4 due to rush and push from other passengers the deceased accidentally fell down from train. The Applicant stated that the deceased was in possession of a second class ticket from Surat to Khatgaon Railway Station. The ticket was purchased by him but, it was lost in the untoward incident.

6. In the cross-examination of Applicant No. 1 Smt. Durgavati Vanraj Valvi, it was suggested on behalf of Respondent- Railway, that the deceased was trespassing the Railway track and was knocked down by the train. But, the AW-1 Smt. Durgavati Vanraj Valvi, turned-down these allegations put forth on behalf of Respondent.

7. I have heard the Ld. Counsels appearing for the Applicant and Respondent. I have also gone through the documents filed by the Counsel for the Applicant and entire documents produced on record. It is not put into controversy that the victim succumbed to injuries received to him during the course of Railway accident. Before embarking into the merits of the matter, it would be appropriate to set-forth the relevant provisions of the Railways Act 1989.

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, 2 & 3

8. All these issues being interconnected with each other are taken up together for better appreciation of evidence on record.

I have carefully perused the SS/Chinchpada's memo issued to the GRP wherein it is mentioned that one unknown person run-over by AK BCNE at Km No. 120/4-5 between CPD-KHTG according to Loco pilot of AK BCNE. The Inquest Panchnama disclosed that the deceased had fallen down from an unknown train. The DRM report disclosed that from the scrutiny of above document it is found that SS and GRP mention in their memo and inquest panchanama that the cause of incidence was deceased knocked down by AK-BCNE, sustained injured and died on the spot. However the incidence took place due to his negligence and carelessness for which Railway is not responsible. Trespassing is an offence vide 147 Railway Act. GRP did not found any Railway Travelling Authority from the possession of deceased during the personal search, hence he is not a bonafide Railway passenger. Compensation should not be granted to the claimant in this case. The monetary liability cannot be fastened on the Railway for the alleged incident.

It is worth to mention that there is no direct evidence of motorman or guard of concerned train involved in the accident to bring on record that the victim was dashed by the train while trespassing. The Station Master is not an eyewitness to the incident. The contentions referred in documents of SM memo and DRM report reflects that all the allegations of run over by train, made by the respondent all rest on hearsay basis. The allegations based on figment of imagination cannot take place of proof. It was the responsibility of respondent to prove the factual aspect of dash of victim by adducing cogent and reliable evidence. The argument advanced on behalf of Respondent appears to be hypothetical and imaginary in nature. As referred above all the allegation of knocked down are based on surmises and conjecture. The Respondent failed to discharge its burden by adducing positive evidence to falsify the pleadings of claimant. Therefore, it can be inferred that the deceased had fallen down from the train while travelling.

9. 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 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.

10. In this case Ld. Counsel for the Respondent did not lead any evidence to fortify that any of the activities of the deceased during

travelling, leading to his death was as a result of any exception clauses under Section 124-A of Railway Act, 1989.

11. It is evident that in order to bring the case under the proviso of sec. 124-A, for “self-inflicted injury”, it is imperative for respondent to produce the material on record that the victim was intending to inflict injury to himself intentionally and purposely. But such intention cannot be inferred bare on his own action or act of negligence. The proviso of sec. 124-A is apparently rest on the principle of “no fault theory”.

12. In the present case, if it is considered that the incident occurred due to the negligence of the deceased, even though these circumstances itself are not sufficient to draw the inference that he had an intention to inflict self-injury. It cannot be ignored that the Victim was travelling by a train. He purchased a ticket for his journey. Had there been any intention on his part for self-inflicting injury, he would have indulged in such dangerous activities by other means.

13. In case of Union of India Vs Rina Devi in Civil Appeal No. 4945 of 2018 the Hon’ble Supreme Court has dealt with the issue “Burden of proof when ticket was not recovered in an untoward incident”. The relevant portion of the judgement in case of Union of India V/s Rina Devi (Supra), is reproduced as under:-

“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”.

14. The Applicant in the affidavit of evidence deposed that the deceased was in possession of a second class ticket for travelling between Surat to Katgaon Railway Station. The ticket was purchased

by the deceased, but the railway ticket was lost in an untoward incident. Therefore, it can be held that the victim was a bonafide passenger of the train on the relevant day of incident.

15. Since the factual aspect of fallen down of the deceased from a train has been established and Respondent failed to prove that the victim was not a bonafide passenger at the time of incidence, there is no impediment to consider that the Applicant discharged the burden casted on them in regard to possession of a valid ticket at the time of incident. Therefore, considering the circumstances on record and in view of judgement of Hon'ble Apex Court in UOI Vs Rina Devi (Supra), I have no hesitation to hold that the deceased was a bonafide passenger at the time of incident and the possibility of misplacing journey ticket in post incident events cannot be ruled out.

16. 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 Vanraj Tukaram Valvi, on 26.05.2013, while travelling as a bonafide Railway passenger from Surat to Khatgaon Railway station, had accidentally fallen down from a running train, sustained grievous injuries and died. Accordingly, the incident would be an "untoward incident" as defined under Section 123 (c) (2) read with Section 124-A of the Railways Act, 1989.

Hence, answer to the issue No. 1, 2 & 3 in affirmative.

ISSUE NO. 4

17. The Applicant No. 1 categorically deposed in her Affidavit by way of examination-in-chief that all applicants are dependents of victim Vanraj Tukaram Valvi. The Applicant produced the Aadhar Cards, Death Certificate of the deceased to establish array of dependent of the deceased. There is no dispute that Applicant No. 1 is the widow of deceased, Applicant No. 2, 3 & 4 are his minor children and Applicant No. 5 is his mother. The father of the deceased has passed

away long back as per the cross examination of applicant no. 1. The Respondent did not disagree with these factual aspects. Therefore, there is no impediment to hold that all the applicants are dependents of victim Vanraj Tukaram Valvi as contemplated under sec. 123 (b) of Railways Act, 1989.

ISSUE NO. 5

18. The incident leading to death of the deceased in an “untoward incident” as defined under sec. 123 (c) of the Railway Act 1989, was occurred on 26.05.2013 therefore, 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 of Rs. 4,00,000/- (Rupees Four Lakh only) from Respondent - Railway on the day of incident. However, in view of Para 15.4 of the Hon’ble Supreme Court Judgment, passed in the case of Rina Devi Vs. Union of India, 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 interest @ 6% PA from the date of accident to the date of payment OR Rs. 8,00,000/- (Rupees Eight Lakh only) whichever is higher. In this case, as Rs. 8,00,000/- (Rupees Eight Lakh only) is on higher side, therefore the same is awarded as compensation to the applicant(s) on account of death of Vanraj Tukaram Valvi, 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.

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. 8,00,000/- (Rupees Eight Lakhs only) plus interest, if any, shall be disbursed in the following manner:

i. Applicant No. 1 Smt. Durgavati Vanraj Valvi and Applicant No. 5 Smt. Shivubai Tukaram Valvi 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 interest if any accrued till date, be kept in the name of Applicant in FDR account/Annuity scheme in any nationalised Bank located nearer to the permanent residential address of 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/FDR in Nationalized Bank
Smt. Durgavati Vanraj Valvi	Rs.40,000/- (Rupees Forty	Rs.3,60,000/- (Rupees Three Lakh Sixty

(Widow) (Applicant No. 1)	Thousand only)	Thousand only) plus accrued interest if any, shall be kept in the form of 36 Fixed Deposits of Rupees 10,000/- (Rupees Ten Thousand only) each, with FD maturity period of 1 to 36 months. <i>Every month the matured FD along with interest if any shall be credited in the savings account of the awardee.</i>
Baby. Saraswati Vanraj Valvi (Minor Daughter) (Applicant No. 2)	Nil	Rs.1,00,000/- (Rs. One Lakh only) plus accrued interest if any in Fixed Deposit Scheme till he attains the age of majority. The Applicant no.1 being mother and the natural guardian of minor daughter of the deceased shall be at the liberty to receive the interest accruing on FDR of minor daughter of the deceased from time to time according to her convenience for her education and upbringing.
Baby. Parvati Vanraj Valvi (Minor Daughter) (Applicant No. 3)	Nil	Rs.1,00,000/- (Rs. One Lakh only) plus accrued interest if any in Fixed Deposit Scheme till he attains the age of majority. The Applicant no.1 being mother and the natural guardian of minor daughter of the deceased shall be at the liberty to receive the interest accruing on FDR of minor daughter of the deceased from time to time according to her convenience for her

		education and upbringing.
Master. Shivram Vanraj Valvi (Minor Son) (Applicant No. 4)	Nil	Rs.1,00,000/- (Rs. One Lakh only) plus accrued interest if any in Fixed Deposit Scheme till he attains the age of majority. The Applicant no.1 being mother and the natural guardian of minor son of the deceased shall be at the liberty to receive the interest accruing on FDR of minor son of the deceased from time to time according to her convenience for his education and upbringing.
Smt. Shivubai Tukaram Valvi (Mother) (Applicant No. 5)	Rs.40,000/- (Rupees Forty Thousand only)	Rs.60,000/- (Rs. Sixty Thousand only) plus accrued interest if any in Fixed Deposit Scheme for a period of two years. <i>After maturity the entire amount including interest shall be credited in the Individual Savings Account of the Awardee.</i>

iii) The Claimant (Applicant) is directed to open an individual Savings Bank Accounts in any Nationalized Bank located nearer to the place of her permanent residence. This Savings Account will be linked with Annuity Deposit scheme/Fixed Deposit Account of Claimant.

iv) The Bank is hereby directed not to permit any joint name(s) to be added in the Savings Bank Account or Annuity Deposit scheme/Fixed Deposit Account of the Applicant i.e. the Savings Bank Account of the Applicant 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 is issued, the concerned Bank authority is requested 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 Applicant without the permission of this Tribunal.

v) The concerned Bank of the Applicant is directed to permit the Applicants to withdraw money from her Savings Bank Account by means of a withdrawal form only. The Applicant is directed to produce the copy of this order before the concerned Bank for requisite endorsement in the Passbook. The Original Annuity Deposit scheme/Fixed Deposit Receipt 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 Applicant. The maturity amount of the Annuity Deposit scheme/FDR be credited by ECS in the Savings Bank Account of the Applicant operated in the Nationalised Bank located nearer to the place of permanent residence of Applicant.

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 Claimant is directed to produce the original Bank Passbook with the necessary endorsement as well 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 Account of the Claimant near to the place of his 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 Claimant.

viii) There shall be no order as to cost.

ix) The certified copy of this Judgement be given to Applicant free of cost.

x) Accordingly, the application stands disposed of in above terms.

(Mohit Sinha)
Member (Technical)