

रेल दावा अधिकरण, नागपुर पीठ, नागपुर
BEFORE THE RAILWAY CLAIMS TRIBUNAL: NAGPUR BENCH, NAGPUR
QUORAM: HON'BLE SANJEEV AGGARWAL, MEMBER(JUDICIAL)/RCT/NGP
HON'BLE SHRI SYED NISHAT ALI, MEMBER (TECHNICAL)/RCT/NGP

CASE No.: OA (IIU)/NGP/07/2022

Date of filing - 19.01.2022.
Date of Judgement - 18.03.2024.

- APPLICANTS:**
1. Niranjana Ram s/o Indradev Ram
Aged- 24 years, Occu. – Labour.
 2. Rakesh Ram s/o Indradev Ram
Aged- 15 years, Occu. – Education.
 3. Vishal Ram s/o Indradev Ram
Aged- 13 years, Occu. – Education.
 4. Neetu kumari d/o Indradev Ram
Aged- 17 years, Occu. – Education.
 5. Smt. Dularidevi w/o Asrafi Ram
Aged- 76 years, Occu. – Household.
 6. Ranjit s/o Indradev Ram
Aged- 12 years, Occu. – Education.
 7. Manjeet s/o Indradev Ram
Aged- 10 years, Occu. – Education.

(Applicants no. 2 to 4 & applicants no. 6 and 7 are minors under guardianship of their brother Niranjana Ram s/o Indradev Ram i.e. applicant no.1.)

All R/o Gram-Kuriya, Post-Piprakothi,
Prakhand Chakiya, East Champaran,
Bihar-845429.

V/s

RESPONDENT: Union of India,
Central Railway,
through its General Manager
Mumbai.

VALUE OF CLAIM: Rs. 8,00,000/-

Applicant by Advocate N.R.Mankar

Respondent by Advocate H.Korde.

JUDGEMENT

1) The applicant has filed a claim application seeking compensation for the unfortunate death of Shri Indradev Ram s/o Asharafi Ram which occurred allegedly in a train accident in the intervening night of 29.09.2020 to 30.09.2020.

2) The applicants have contended in the claim application that on 29.09.2020 the deceased alongwith his 3 other friends boarded in Covid Special Mangala Lakshadweep Express train no. 02618 for travelling from Nizamuddin to Ernakulam railway station after purchasing a valid reservation E-ticket bearing PNR no. 2410849009 of S-4 coach berth no. 2,3,5 and 6. While travelling in the said train when the said train was running in the midnight of 29.09.2020 and 30.09.2020 in between Km no. 337/30-32 in between Waghli-Kajgaon railway station due to sudden jerk the deceased untowardly and accidentally fell down from the running train and died on the spot. It is further contended that the deceased was having valid journey ticket and the same has been filed on record along with the claim application and that he was a bonafide passenger and died in an untoward incident, hence the applicants are entitled to claim compensation.

3) The respondent-railway has contested the claim application by filing the written statement, wherein by way of preliminary objections, it is averred that no such incident causing death of the deceased within the meaning of the provision of Section 123 (c) read with Section 124-A of the Railways Act has taken place and as such, the claim application is not maintainable and further that the deceased was not a bona fide passenger of train at the time

of incident as no ticket was recovered at the time of Panchnama from the body of the deceased. The alleged incident of accident is not due to falling of deceased from the train. While denying all the averments of the applicants as made in the claim application either being wrong or for want of knowledge, it is averred that the applicants are not entitled to any compensation. With these averments, a prayer is made to dismiss the claim application with costs.

Based on the pleadings of the parties following issues were framed:-

1. Whether Applicant/s is the dependent/s of the deceased within the meaning of Section 123 (b) of the Railway Act?
2. Whether deceased was a bona fide passenger of the train on the relevant day, with valid journey ticket?
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 the Railway Act?
4. To what order/relief?

4) The applicant no.1 Niranjan Ram s/o Indradev Ram was examined as AW-1 and documents Exh. A-1 to A-21 were marked on behalf of applicants. No witness was examined from the side of the respondent-railways. The respondent railway placed on record Statutory Investigation Report along with a number of documents as prepared during the course of such enquiry.

Discussion on the issues with reasoning:

ISSUE No.1:

5) The applicant No.1 is the elder son of the deceased, applicant no. 2, 3, 6 and 7 are the minors sons of the deceased, applicant no. 4 is the minor daughter of the deceased and applicant no. 5 is the widowed mother of the deceased. The applicants had filed on the record the copies of the death certificate of the deceased (Exh.A-8), death certificate of the father of the deceased (Exh.A-20), death certificate of the wife of the deceased (Exh. A-21), aadhar cards of applicant no. 1 to 5 (Exh.A-11 to Exh.A-15) and birth certificates of applicant no. 6 and 7 (Exh.A-22 and Exh.A-23) are filed on record. On perusal, these documents prove the relationship between the parties and the deceased and it is noticed that during pendency of this claim application Applicants No.- 2 and 4 have become major. During the proceedings, no other person staked claim as dependent of the deceased. Thus, we hold that the applicant are the dependents on the deceased within the definition of Section 123 (b) of the Railways Act, 1989. Hence, this issue is answered accordingly.

6) Both these issues being inter-connected are being taken up together for discussion and decision.

ISSUE No. 2

7) The applicants have filed on record a copy of reservation E-ticket as Exh.A-1, bearing PNR no. 2410849009 for the train no. 02618 Mangala Lakshadweep Special train Ex. Nizamuddin to Ernakulam of for 4 adult persons, on which the name of the deceased alongwith his 3 other friends namely Sudish Mukhiya, Manish Kumar, Parvash Mukhiya is mentioned and they all were allotted their seats in S-4 coach on berth no. 2, 3, 5 and 6. Respondent has argued that the said ticket of the deceased was not

recovered from the body of the deceased during the Spot or Inquest Panchnama. However, the applicants have filed railway journey ticket on record. Also, the statement of co-passengers/friend of the deceased, whose names is mentioned on this ticket, was recorded during the course of investigation and in his statement the of co-passenger of the deceased namely Parvesh Mukhiya (Exh.A-10) recorded by GRP/Chalisgaon, he has stated that he himself alongwith the deceased, Manishkumar, Sudesh Mukhiya and some other villagers were going to Kerala in search of labour work and accordingly they all purchased valid railway reservation ticket for train no. 02618. They all got seats in different coaches and these 4 people including the deceased got their seats in coach no. S-4 in berth no. 2, 3, 5 and 6. During their journey they all together ate their food and went to sleep on their respective berths at 9 p.m. The deceased was also sleeping on his berth. But on next day when they woke up but could not find the deceased even after the passage of some time. As the deceased did not have a mobile phone so they decided to call the brother of the deceased and informed him that the deceased was missing. Later in the afternoon they received a call from their village and got the information that the deceased had fell down from the train at Chalisgaon railway station and died. In his statement the friend of the deceased had admitted that the deceased was travelling in the alleged train. The applicants counsel argued that the statement of the co-passenger of the deceased proves beyond doubt that the deceased was possessing the valid railway journey ticket and was a bonafide passenger of the alleged train no. 02618. Respondent has not produced any documentary or other evidence to prove that the ticket filed by applicant was forged or bogus and deceased was not a bona fide passenger. Nothing contrary has been shown in this regard on behalf of the respondent railway. Respondents have not raised any objection to the veracity of ticket. Keeping in view the circumstances explained above, it is concluded that the deceased was a

bonafide passenger of the alleged train. Hence, this issue no. 2 regarding the bonafide of the deceased is decided in favour of applicants.

ISSUE No. 3

8) So far as the factum of occurrence of untoward incident is concerned, a memo (Exh.A-7) was issued by on duty Dy. S.S., Waghli railway station on 30.09.2020 at 05.40 a.m. to RPF & GRP, Chalisgaon and in the said memo it is mentioned that as per the information received from Patrolman Shri Rajesh Meena one unknown person was lying in dead condition in between Up and Down line at Km no. 337/30-32 between Waghli and Kajgaon railway station.

8.1 The inquest proceedings in this matter is started by GRP/Chalisgaon. In the Police documents i.e. Accidental Death report (Exh.A-2) it is mentioned that the deceased had fallen down from some unknown running train and died. In Inquest Panchnama (Exh.A-4) the injuries sustained on the body of the deceased are mentioned "Head is crushed with injury on the left side and blood is dried, Face and Chest- injuries due to railway Gitti, Right hand-broken from elbow and shoulder crushed, Left hand- broken from elbow and shoulder fractured and broken from Palm, Left Leg- cut and separated from knee, several injuries due to railway Gitti on various parts of the body." and Inquest Panchnama the police have opined that the deceased was travelling from an unknown train and fell down as he lost his balance and died.

8.2 It is denied by the counsel of the respondents that the deceased died in an untoward incident on the date of incident as alleged by the applicants as there is no eye witness as to how the deceased had fallen from the train and died at the incident spot. However, from the record it is seen that the body of the deceased was noticed on 30.09.2020 at 05.30 a.m. in between

Waghli-Kajgaon railway station which is enroute to alleged journey of the deceased and the same facts have also been stated by the co-passenger of the deceased in their statements that the deceased was travelling in the alleged train on 29.09.2020 and on next day i.e. 30.09.2020 he was not found in the train. So, the facts remains that deceased was not a resident of nearby place nor there is any evidence that he was having business near the place of incidence. It is also observed that the deceased had sustained several injuries due to railway Gitti which could happen when the person has fallen down from the running train. From the circumstances, it can be concluded that the deceased had fallen down from the alleged train during course of his journey. The respondent has not adduced any evidence or has not proved anything contrary regarding the happening of untoward incident. In the circumstances explained above and keeping in view the evidences available on record, the issue No. 3 is also decided in favour of the applicants.

9) In view of the above it is held that deceased was a bonafide passenger having a valid ticket and accidentally fell down from the train which covered under Section 123 (c) (2) of the Railways Act as an untoward incident. Accordingly, the issues No. 2 and 3 are decided in favour of the applicants.

ISSUE No. 4

10) In view of our findings on issue No. 1, 2 and 3, we hold that the deceased was a bonafide passenger for his journey on the date of the incident and he had died in an untoward incident during the course of his journey for which the applicants are entitled to get the statutory compensation for a sum of Rs. 8,00,000/- (Rs. Eight Lakhs only).

ORDER

11) In the result, the O.A. is allowed on contest and merits against the respondent. The Respondent Railway shall pay to the applicants a sum of Rs. 8,00,000/- (Rs. Eight Lakhs only) as compensation along with simple interest @ 6% per annum from the date of accident till the date of judgement. The Respondent Railway is given 60 days to pay the compensation amount. If the Respondent Railways fails to pay the compensation amount to the applicants within 60 days, the applicants shall be entitled to get 9% interest on their compensation amount from the date of this order till the date of payment.

Accordingly, respondent Railway is directed to deposit the awarded amount of compensation within 60 days from the date of receipt of this judgment, in the Suitors money account being maintained by the Additional Registrar of this Tribunal, failing which 9% interest has to be paid after expiry of 60 days. The compensation amount is distributed as follows:-

Name of Applicants	Compensation Amount	Disbursement of Compensation Amount	
		Cash	Annuity/ Fixed Deposit
Shri Niranjan Ram s/o Indradev Ram	Rs. 1,25,000/-	Rs. 25,000/- + interest	Rs. 1,00,000/-
Shri Rakesh Ram s/o Indradev Ram	Rs. 1,25,000/-	Rs. 25,000/- + interest	Rs. 1,00,000/-
Shri Vishal Ram s/o Indradev Ram	Rs. 1,25,000/-	-	FD till attaining majority
Neetukumari D/o Indradev Ram	Rs. 1,25,000/-	Rs. 25,000/- + interest	Rs. 1,00,000/-
Smt. Dulari devi w/o Asrafi Ram	Rs. 50,000/-	Rs. 5,000/- + interest	Rs. 45,000/-

Shri Ranjit s/o Indradev Ram	Rs. 1,25,000/-	-	FD till attaining majority
Shri Manjeet Ram s/o Indradev Ram	Rs. 1,25,000/-	-	FD till attaining majority

12) So far as disbursal of the amount of award is concerned, we have heard the learned counsel for the parties. It is noticed that in Geeta Devi v Union of India [FAO 22/2015 & CMA 4501/2015] dated 24th May, 2019, Delhi High Court has inter alia observed that :-

“5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990

1.1. Many of the claimants are drawn from rural areas with low levels of literacy and lower levels of making appropriate decision for the use of amounts guaranteed under the awards. There are several instances of their exploitation by middlemen and touts operating in the field. The scope for such exploitation is itself one of the incentives for fomenting bogus claims, fabricated documents and duplicate claims in different Benches of the Tribunal for the same cause of action. The availability of bulk funds in the name of an ill-informed claimant is also a cause for exploitation. A scheme for protection of the amount due to such a claimant is the need of the hour. Earlier, this Court has involved 21 Nationalized Banks in dialogue to evolve a scheme of annuities for disbursement of claims. They have been ordered already to be implemented in this case, vide directions passed on 22nd February, 2019. This scheme as applied to motor accident claims has been approved by the Supreme Court in its order dated 05th March, 2019 in Krishnamurthi vs New India Insurance Company, SLP (C) No.31521-31522 of 2017. A statutory rule backing will, therefore, best serve the interest of the litigant

13) In pursuance of the orders passed by the Delhi High Court, Government of India has issued a Notification No. GSR (E) 347 dated 3rd

June, 2020 amending Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, amended Rule 5 reads as under :-

"5. Mode of payment—

5.1 The Tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode as shall subserve justice.

5.2 If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance.

5.3 Nothing in this Rule shall limit the power of the Tribunal to make modifications of the mode of disbursement for reasons to be stated in writing depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed deposit, for the benefit of the claimant.

5.4 The orders dated 21st April, 2017, 24th May, 2019 and 6th November, 2019 of Hon'ble High Court of Delhi in FAO No. 22/2015 and CM Application No. 4501/2015 in Geeta Devi Vs Union of India, relating to disbursement of compensation shall be read as part of this Rule."

Therefore, considering factors impacting judicious use of the awarded sums, like age, marital status and level of dependency of the claimants and in compliance of Rule 5 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended vide Notification of 3rd June, 2020, in the present case, the amounts of award shall be disbursed in the following manner :-

- 14) The respondent railway shall deposit the awarded amount, along with 6% interest per annum, in the Suitors money account of this Tribunal

maintained by the Additional Registrar within a period of 60 days from the date of receipt of this order. While depositing the awarded amount along with interest, the respondent railway shall send notice by registered post to the applicants with a copy of the same to the Additional Registrar and to the counsel for the opposite party giving complete details of the payment such as UTR number, calculation of interest etc.

15) It is observed that, even at the time of filing of claim application the applicant no. 2, Rakesh Ram s/o Indradev Ram and applicant no. 4, Neetukumari d/o Indradev Ram were minor but as on today i.e. on the date of passing of this order they have become major (as per their Aadhar cards filed on record). So, the disbursement of compensation amount of Applicant no. 2 and 4 is done accordingly. Awarded share amount of Rs. 25,000/- each share of compensation to Applicants no.1, 2 and 4 with proportionate share of accrued interest on award, shall be released forthwith by ECS/NEFT to them and remaining amount of Rs. 1,00,000/- (Rupees One Lakh only) each, shall be split into 20 fixed deposits of Rs. 5,000/- (Rupees Five Thousand only) each and invested for a period of one to 20 months in ascending order. For Applicant No. 5, Rs. 5,000/- share of compensation with proportionate share of accrued interest on award, shall be released forthwith by ECS/NEFT to her and the remaining amount of Rs. 45,000/- (Rupees Forty-Five thousand only), shall be split into 09 fixed deposits of Rs. 5,000/- (Rupees Five thousand only) be invested for a period of 1 to 9 months in ascending order. The bank shall release the amount with accumulated interest upon maturity of each of these deposits to the credit of the respective Savings Bank account of the applicant no. 1, 2, 4 and 5 near the place of their residence. Applicant No. 3, 6 and 7 who are the minor sons of the deceased, to protect the interest of applicant No. 3, 6, and 7 the amount of Rs. 1,25,000/- (Rs. One lakh Twenty-Five Thousand only) each shall be kept in fixed deposit for the period up to the date on which the applicants attain their

respective majority. However, the applicant No. 01, being the natural guardian, will have the liberty to withdraw interest accrued every quarter from the fixed deposits of applicant no. 3, 6 and 7 to meet out their requirements. The amount of applicant no. 3, 6 and 7 shall be transferred to their respective Saving Bank accounts on maturity without seeking any intervention from tribunal.

16) The dependent is hereby directed to submit details of her individual Bank account of a nationalized Bank situated near the place of her residence to the Additional Registrar of this Tribunal.

17) If the Applicants are entitled to exemption of deduction of TDS, they shall submit Form 15-G or Form 15-H (for senior citizen) to the Presenting Officer of the Railway within 15 days from the date of this order and in such case no TDS is to be deducted by the respondent railway.

18) In pursuance of Rule 5.4.4 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended by GSR 347 (E) dated 03.06.2020, following conditions are imposed in respect to the fixed deposits :-

- (i) The Bank shall not permit any joint name(s) to be added to the applicant's savings account or fixed deposit account.
- (ii) No loan, advance, withdrawal or pre-mature discharge be allowed from the fixed deposit without permission of the Tribunal.
- (iii) The Bank shall not issue any cheque book and/or debit card to the applicants. However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount.
- (iv) The bank shall make an endorsement on the passbook of the applicants to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission

of the Tribunal and the applicant shall produce the passbook with the necessary endorsement before the Additional Registrar of this Tribunal.

19) The application is allowed in the above terms with no order as to costs.

File be consigned to the record-room.

(Syed Nishat Ali)
Member (Technical)

(Sanjeev Aggarwal)
Member (Judicial)

Pronounced in open Court.
Nagpur.
Date: 18.03.2024.
/SW/