

Mr. JUSTICE KANWALJIT SINGH AHLUWALIA, HON'BLE
CHAIRMAN

Ms. ROOPA SRINIVASAN, HON'BLE MEMBER (TECHNICAL)

Case No. : OA/II(U)/PNBE/138/2023
Date of filing : 12.12.2022
Date of Decision : 13.08.2025

1. Kaushal Kumar (father of the deceased)
S/o Uma Kant Mishra
2. Renu Mishra (mother of the deceased)
W/o Kaushal Kumar,

Both R/o Ashiananagar, Digha Road, Near C.R.P.F. Comp, Nepali Nagar,
Phulwari, Ashiananagar, Patna, Bihar-800025

...Applicants

Versus

Union of India,
Represented through:
General Manager,
East Central Railway,
Hajipur.

...Respondents

Claim for Rs. 8,00,000/- (along with 12% interest)

Roopa Srinivasan

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Sh. Rajiv Kumar, counsel for the applicant through virtual mode.
Sh. Radhika Raman counsel for the respondent through virtual mode.

JUDGEMENT

Ms. Roopa Srinivasan, Hon'ble Member (Technical)

1. This is an Application filed by two applicants under Section 16 of the Railway Claims Tribunal Act, 1987, against the respondent Railway administration, seeking compensation for the death of Amit Kumar Mishra, age 24 during a train journey as a result of an alleged untoward incident. The two applicants who are the parents of the deceased - Kaushal Kumar @ Koshal Kumar (father) and Renu Mishra (mother) have sought compensation under Section 16 of the Railway Claims Tribunal Act, 1987.

Case of the applicants

2. On 25.07.2022, after purchasing a second class ordinary ticket for a journey from Hajipur to Chapra, Amit Kumar Mishra @ Amit Kumar boarded a passenger train at Hajipur Junction. Due to the heavy rush and intense jostling among the passengers, Amit Kumar Mishra fell down from the moving train near the outer signal of Hajipur Junction between Hajipur and Sonapur Stations near Pole No. 267/35 as a result of which he sustained grievous injuries and died on the spot. The applicants have

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- sought compensation under Section 16 of the Railway Claims Tribunal Act for the death of Amit Kumar Mishra @ Amit Kumar (henceforth the "deceased") in this untoward incident as defined under Section 123 (c) (2) of the Railways Act, 1989.
3. The applicants submitted the following along with their claim application and during cross-examination (1) Station Master Hajipur Memo dated 25.07.2022 (2) Inquest report dated 26.07.2022 (3) Application of Kaushal Kumar dated 26.07.2022 (4) FIR No. 30/22 dated 26.07.2022 (5) Post-Mortem report dated 26.07.2022 at 11:30 am (6) Final report dated 27.07.2022 (7) Aadhaar Card of the deceased and the applicants (8) Family certificate issued by Madhu Chaurisiya, Councillor Ward No.2 Patna (9) Saving bank account of applicants among others.

Case of the Respondent

4. The Respondent along with their Written Statement have filed the following:- (1) DRM report (2) Form- 1 & 2 (3) Death Certificate, issued by Madhu Chaurisiya, Councillor Ward No.2 Patna (4) Statement of Kaushal Kumar (5) Report of Rakesh Kumar, SI/RPF Hajipur (6) Statement of Munna Kumar, Deputy Station Suptd., Hajipur (7) Naksha Nazri (8) Statement of Mewalal, ASI/RPF/Hajipur, among others.
5. The Respondents in their written statement have denied the claim of the applicant and had stated that the deceased was not a bonafide passenger, since no

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ticket was found on the body or amongst his possessions. There is also no mention of recovery of a ticket during the inquest. There is no eye-witness to the incident and it is likely that the injured got hit by a running train while unauthorisingly using the railway track. In this regard Para 5 of the Written Statement are reproduced below:-

"5. That it is submitted that facts submitted in the O.A and findings came out of the detailed enquiry conducted by the respondent is sufficient to prove that the applicant has filed false and fabricated case on amongst the following ground:-

a. That as per inquest report prepared by GRP/Hajipur no valid Railway ticket or authority to travel recovered from the possession of victim. Hence victim was not a bonafide passenger of any passenger carrying train.

b. That the deceased died by his own fault or negligence in which respondent cannot be responsible.

c. That as per inquiry report attached with DRM /Report dead body position laying between middle of track it seems that hit by any running train while use the railway track. It does not come under the purview of Section 124A of Railway Act, 1989.

d. That there is no eye witness to the whole story.

e. That the deceased get injured hit by any running train while unauthorized use the Railway Track."

(Reproduced in verbatim)

6. In the DRM report also the veracity of the entire claim has been called into question.

It was brought out that train movement had been affected by the incident with the traffic remaining suspended for clearance of the track. The non-recovery of the ticket from the deceased is also highlighted. In the conclusion of the Post Commander RPF

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Post/Hajipur which is annexed with the report, the following conclusion has been drawn:-

जांच का परिणाम- जांच के दौरान पाए गए पारिस्थिति जन्य साक्ष्य मिसिल में संलग्न कागजात तथा मौके पर उपलब्ध गवाहों के बयान से स्पष्ट रूप से प्रमाणित होता है की उक्त घटना मृतक द्वारा अनाधिकृत रूप से ट्रेक पार करने के दौरान किसी अज्ञात ट्रेन की चपेट में आ जाने के दौरान जख्मी होने से मृत्यु होना हुआ है। उल्लेखनीय है की अनाधिकृत रूप से ट्रेक पार करना रेलवे एक्ट के नियमों के तहत दंडनीय अपराध भी है। अतः उक्त घटना मृतक के लापरवाही के कारण होना हुआ है इसमें रेल प्रशासन का कोई लापरवाही साबित नहीं होता है। अतः मृतक के परिजनों द्वारा किया गया दावा उचित नहीं है।

(Reproduced in verbatim)

7. Applicant No. 1, who is the father of the deceased, appeared before the Bench and tendered his affidavit towards examination in chief on oath as AW-1. He stated that he was not an eye-witness to the incident. But he had seen the body of the deceased, the body was in two parts separated at the waist and right hand had been separated at the wrist, one finger was cut from the left hand, he stated that deceased had left the home at around 05:30 pm on 25.07.2022 to catch the train from Hajipur to Chapra.
8. The Single Member Bench of Patna Tribunal on 22.09.2023, formulated the following issues for adjudication:-

1. क्या मृतक प्रश्नगत रेलगाड़ी का सद्भावी यात्री था ?
2. क्या मृतक की मृत्यु से सम्बन्धित घटना रेल अधिनियम 1989 की धारा 123 (C) (2) सपठित धारा 124-ए के अन्तर्गत परिभाषित अनपेक्षित घटना की परिधि में आती है।

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3. मृतक के आश्रित कौन-कौन हैं?

4. आश्रितगण किस उपशम को प्राप्त करने के अधिकारी हैं?"

Findings

9. Having gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of the parties and hearing the arguments advanced on behalf of the parties by the counsel, our findings are as under:-

Issue No. 1 and 2

10. Both the issues are interconnected by facts and laws, hence taken up together-

11. The body of the deceased was found at KM 267/35 at the outer signal of Hajipur station in the middle of the UP line. As per the Station Master Memo dated 25.07.2022, "हाजीपुर सोनपुर के बीच में KM 267/35 एवं 11124 के चालक भी बोले हैं कि एक डेड बॉडी लाइन पर पड़ा हुआ है 11124 खड़ी है उचित कार्रवाई हेतु" (Reproduced in verbatim)

The inquest report also mentions that "शरीर के कमर के बीच से कटा हुआ, दोनों हाथ का उँगली काटा हुआ। पैर दोनों टूटा हुआ। छत-विछत हालत में।" (Reproduced in verbatim)

12. The post-mortem report mentions the following injuries among others-

Crush injuries below pelvis with amputation of both lower limbs, crush of left hand, crush of right fore arm.

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13. The Loco-Pilot of train No. 11124, spotted the dead body of the deceased in the middle of the track at KM 267/35 at 22:35 hrs. This is also mentioned in the Station Diary of Hajipur station. Since, the body was mangled and the dead body had to be removed from the track, train No. 11124 remained at the site from 22:35 hrs till 23:33 hrs. It is clear from this that the body was in such a mangled condition that it took time for clearance of the track.

14. This condition of the body is also detailed in the report of the Assistant Sub Inspector RPF/ Post Hajipur to the Senior DSE an extract of which is reproduced below:-

“शव की अवस्था सर पूरब तथा दोनों पैर पश्चिम आंख काला, बाल काला, शरीर के अंदर के बीच से कटा हुआ दोनों हाथ की उंगली कटा हुआ पैर दोनों टूटा हुआ क्षत-विक्षत हालत में एवं”

(Reproduced in verbatim)

15. Such a condition of the body does not occur on account of fall from a moving train and is more likely the situation when the body is run over.

16. A ticket was not found either on the body of the deceased or amongst his possessions, which is also not mentioned in the Inquest report. The details of the train on which the deceased travelled is also not mentioned in the application however, applicant No. 1, in their statement mentioned that train No. 12561 was the train by which the deceased usually travelled to Chapra and was probably the train by which he would have travelled on the day of the incident as well though, he was not sure about this. Verification of this detail by the respondent in the TSR

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reveals that train No. 12561, arrived at 22:50 hrs and departed well after the incident at 23:43 hrs, so this detail provided by the applicant No. 1 is not correct. Therefore, no details are forthcoming about the incident- there is no ticket, there is no details of the train by which the deceased travelled, there is no eye-witness to the incident either. All details are completely obscure. The only thing that is certain is that there was a mangled body beside the track on that day. It is likely that the death took place on account of run over while crossing the track illegally.

17. Under these circumstances, on account of lack of any material fact or credible evidence, on the basis of merely hearsay evidence that the deceased was a bona fide passenger of the train in question and died in an untoward incident cannot be established. Consequently, Issue No. 1 and 2 are decided in favor of the respondent and against the applicant.

Issue No. 3, 4 & 5 :-

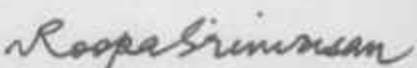
18. In view of our findings qua issue no. 1, 2 against the applicants, adjudication quo issue No. 3 pales into insignificance and is not required. Thus, issue No. 4 is decided against the applicants and in favor of the respondent by holding that the applicants are not entitled for any relief and compensation.

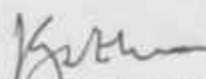
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ORDER

19. In view of the discussion held above, the claim application, being devoid of merits, is hereby dismissed with no order as to costs.


(Ms. Roopa Srinivasan)
Member (Technical)


(Kanwaljit Singh Ahluwalia)
Chairman

