

**Before Railway Claims Tribunal, Ahmedabad Bench {as Circuit Bench of
Railway Claims Tribunal, Patna Bench (parent bench of this case)}
through virtual mode hearing.**

**Coram: Shri Virendra Kumar Goyal, Member (Judicial)
Shri Shiv Kumar Prasad, Member (Technical)**

CASE No. OA (IIu)/PNBE/14/2020

Date of Institution: 14.02.2019

Date of Decision: 25.04.2025

1. Bhuneshwar Pandit @ Bhunesar Pandit, Aged about 63 years,
(Father of the deceased)
2. Parwati Devi, Aged about 54 years,
(Mother of the deceased)

The applicants are residing at : Village/Mohalla-Shyampaira,
Tola Pairamatihana, P.S.-Sono,
District-Jamui, Bihar-811314.

....APPLICANTS

VERSUS

UNION OF INDIA
Through General Manager,
East Central Railway, Hajipur.

...RESPONDENT

Appearance: Ms. Rinki Sinha, Ld. Counsel for the Applicants.
(Through Virtual Mode)
Mr. S.B. Singh, Ld. Counsel for the Respondent.
(Through Virtual Mode)

CLAIM FOR Rs. 8,00,000/- + Interst

JUDGMENT

1. This Original Application has been filed by the father and mother of the deceased under section 16 of the Railway Claims Tribunal Act, 1987 for compensation from Respondent Railway on account of alleged death of their

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son Sambhu Kumar Pandit s/o Bhuneshwar Pandir @ Bhunesar Pandit, aged 23 years (herein after referred to as 'deceased') in an alleged untoward incident, on the ground that they are dependents of the deceased.

2. In fact, this OA has been filed before RCT/Patna Bench thereafter upon directions of Hon'ble Chairman/Principal Bench-Delhi vide order dated 18.02.2025, this case was referred to RCT/Ahmedabad for expeditious adjudication and disposal within time stipulated in the said order through hybrid mode. The original file was received on 12.03.2025 by this Tribunal. Thereafter the ld. counsels for both the parties appeared through virtual mode to argue their case.

3. Basic details relating to accident as contained and alleged in the

Application: -

- a) **Date of accident:** 24.09.2018
- b) **Person Deceased/Injured:** Sambhu Kumar Pandit s/o Bhuneshwar Pandit @ Bhunesar Pandit, aged 23 years.
- c) **Relationship of the Applicants with the deceased:** Father and Mother of the deceased.
- d) **Train involved and transit details:** On 24.09.2018, the deceased was travelling by train, from Jhajha to Patna Junction. Journey ticket bearing No.URC 53090278 has been recovered in possession of the deceased during the preparation of Inquest Panchnama.
- e) **Untoward incident as narrated in Original Claim Application :** On 24.09.2018, the deceased was travelling by train, from Jhajha to Patna Junction. During the course of journey when the said train was running at west of Fatuha Jn., in front of KM. No.521/39, due to heavy rush and push of the passengers, the deceased accidentally fell down from the said running train and sustained serious injuries and died on the spot. Journey ticket

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bearing No.URC 53090278 has been recovered in possession of the deceased during the preparation of Inquest Panchnama.

4. Salient features of reply:

a) **Averments in reply:** The Respondent has filed their reply for contesting the case. Relative Paras are reproduce as under :

"5. That untowards incident alleged to be taken place near Fatuha Station while the deceased was standing near the gate of the compartment and also alleged that due to jolt of train the deceased fell down from train and seriously injured.

8. That police of GRP submitted charge sheet on 15.12.2018 and stated that ticket has been found from the pocket of the deceased dated 24.09.2018 showing ticket Jhajha to Patna."

b) **Crux of DRM Report:** As per DRM report – "जाँच में पाये गए साक्ष्यों, गवाहों के बयान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतक-शंभू कुमार पंडित उम्र-23 वर्ष पे0- भूनेश्वर पंडित, सा0-श्यामपैरा टोला, थाना-सोनौ, जिला-जमुई के पास से एक रेल यात्रा टिकिट सं० -53090278 झाझा से पटना तक दिनांक 24.09.2018 का पाया गया, जिसका सत्यापन मुख्य बुकिंग पर्यवेक्षक/झाझा से कराने पर उनके द्वारा बताया गया कि उक्त टिकिट झाझा स्टेशन से दिनांक 24.09.2018 को जारी किया गया है। घटित घटना का कोई प्रत्यक्षदर्शी गवाह नहीं है। मृतक की मृत्यु अनधिकृत रूप से घटनास्थल पर ट्रेक पार करने के क्रम में किसी चलती गाड़ी के चपेट में आने से हुई है। अतः उपरोक्त परिस्थिति रेल प्रशासन कि कोई जिम्मेवारी नहीं बनती है। घटना रेल अधिनियम कि धारा 123 की उप धारा (ग) में परिभाषित अनापेक्षित घटना में वर्णित परिस्थितियों में घटित नहीं हुई है।"

5. From the pleadings, following issues were framed on 21.06.2021.

1. Whether deceased was bonafide passenger of unknown train ?
2. Whether death of the deceased is covered under Section 123(C)(2) of the Railway Act, 1989 ?
3. Whether applicant/dependents are dependents of the deceased ?
4. Whether applicant/dependents are entitled to receive compensation, if yes, to what extent ?

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6. **Applicant's Evidence:** Applicant No.2 has filed her examination-in-chief on affidavit as AW-1 and she was cross-examined by Counsel for the Respondent.
7. **Respondent Evidence:** Respondent has opted not to adduce any oral evidence but has relied upon its DRM Report & Documents annexed thereof.
8. **Description of the documents filed by the Applicant are as under.**
Journey ticket, Memo, Inquest Panchnama, Application given by the Applicant No.1, F.I.R., Dead Body Chalan, Post Mortem Report, Receipt of Dead Body, Final Report, Aadhar Card of deceased, Aadhar Cards of the applicants, Parivar Suchi Certificate.

FINDINGS

9. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of both the parties and heard the arguments advanced on behalf of rival parties by their counsels. Findings of this Tribunal on the aforesaid issues are as under.

Issue No.1 and 2

10. Issues No. 1 and 2 are being taken up together as they are interconnected. Findings on the issues are as under :-
11. On 24.09.2018, the deceased was travelling by train, from Jhajha to Patna Junction. During the course of journey when the said train was running at west of Fatuha Jn., in front of KM. No.521/39, due to heavy rush and push of the passengers, the deceased accidentally fell down from the said running train and sustained serious injuries and died on the spot. Journey ticket bearing No.URC 53090278 has been recovered in possession of the deceased during the preparation of Inquest Panchnama.
12. We have heard both sides and also gone through the records.
13. Counsel for the Respondent heavily relied upon the DRM Investigation Report and argued on the same line that the deceased died due to his own negligence as he was travelling by sitting/standing near the door of the running

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train. In the The Inquest Panchnama also suggested that the deceased fell down from the running train and his body was lying beside the Railway track and also suggested that the journey ticket was recovered in possession of the deceased.

14. Moreover, the applicants have produced certified copy of journey ticket with this Claim Application and the same was recovered in possession of the deceased during Inquest Panchnama. The Respondent has verified the said ticket and admitted in its reply about recovery of the journey ticket.

If a ticket for undisputed journey was recovered from the deceased, no any adverse inference can be taken. As far as, the question related to negligence of the deceased, the Respondent has not produced any oral/documentary evidence with this regard.

15. Thus, a passenger includes a person travelling with a valid pass or ticket as well as who has purchased a valid ticket for travelling by a train carrying passengers on any date or having a valid platform ticket and becomes a victim of an untoward incident. If it is established that the deceased was a bonafide passenger, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration, the railway administration would be liable to pay compensation.

16. The applicants have successfully discharged their initial burden by filing the affidavit and certified copy of journey ticket. The Respondent could not get anything in its favour in examination-in-chief and cross examination of applicant No.2 as well as the Respondent has also verified the said ticket. In view of the above, it can safely be concluded that the deceased was a bonafide passenger of the alleged train as defined under Section 2 (29) read with Section 124-A of the Railways Act, 1989 and the deceased met with an untoward incident due to an accidental fall from the passenger carrying train, suffered injuries and the present case is well within the definition of Section 123 (c) (2)

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read with Section 124-A of the Railways Act, 1989. Accordingly, issue No.1 & 2 is decided in favour of the applicants and against the Respondent.

Issue No. 3 & 4

17. After adjudication of bonafide passenger status and occurrence of untoward incident, the only dispute between parties left for adjudication is about dependency and amount of relief.

18. The claim has been filed by father and mother of the deceased. In support of dependency applicants have filed "Pariwar Suchi Certificate". There is no dispute about the relationship of the Applicants with the deceased and the Respondent has not adduced any evidence to prove anything otherwise. The Applicants have every locus to file this petition under Section 16 of RCT Act, 1987 read with Section 124A and 125 of Railways Act, 1989.

19. Hence, it is held that the applicants are the dependents of the deceased and in view of findings of this Tribunal on issue no. 1, 2 and 3 above, they are entitled to get compensation of Rs. 8,00,000/- (Rs. Eight Lakh Only) as prescribed under part-I of the Schedule appended to Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 and applicable from 01.01.2017.

20. **ORDER** : The claim application is allowed. The awarded amount shall be distributed in the following manner:-

1.	Bhuneshwar Pandit @ Bhunesar Pandit , Father of the deceased.	: Rs. 4,00,000/-
2.	Parvati Devi , Mother of the deceased	: <u>Rs. 4,00,000/-</u>
	Total	: Rs. 8,00,000/-

ORDER

21. The Respondent Railway shall pay the awarded amount to the Applicants as per apportionment given above within 60 days from the date of this order. The awarded sum will carry simple interest @ 6% per annum from the date of





incident i.e. 24.09.2018 till the date of this order. If the Respondent Railway fails to pay the amount within above stipulated time (60 days), the awarded sum will carry simple interest @ 9% per annum from the date of order till the date of realization.

22. The Respondent Railway Administration is directed to deposit the whole amount along with interest with the Registry of RCT/Patna within a period of 60 days from the date of this order. Further the Respondent is directed to place the proof of awarded amount on record with up-to-date interest along with the calculation sheet.

23. The Registry is directed to disburse the total compensation amount as per detailed apportion as given below:

Applicant Name	Awarded Amount	Amount to be given through ECS/NEFT	Amount to be invested under Fixed Deposit
Bhuneshwar Pandit @ Bhunesar Pandit (Applicant No.1)	Rs. 4,00,000/- (Four Lakh) + Proportionate Interest, if any.	Rs.40,000/- (Forty Thousand) + Proportionate Interest, if any.	The balance amount of Rs. 3,60,000/- (Rupees Three Lakh Sixty Thousand) only shall be invested in the shape of FDR in his name in any Nationalized Bank near his place of permanent residence for a period of 3 (Three) years. The bank upon maturity of the said FDR period shall release FDR amount along with interest if any, in the saving bank account of Applicant No.1, father of the deceased.
Parwati Devi (Applicant No.2)	Rs. 4,00,000/- (Four Lakh) + Proportionate Interest, if any.	Rs.40,000/- (Forty Thousand) + Proportionate Interest, if any.	The balance amount of Rs. 3,60,000/- (Rupees Three Lakh Sixty Thousand) only shall be invested in the shape of FDR in her name in any Nationalized Bank near her place of permanent residence for a period of 3 (Three) years. The bank upon maturity of the said FDR period shall release FDR amount along with interest if any, in the saving bank account of Applicant No.2, mother of the deceased.

24. The dependent(s) is/are hereby directed to furnish the particulars of his/her/their savings bank account of a Nationalized near to his/her/their

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permanent place of residence along with a copy of Aadhar Card, PAN card, two photographs, specimen signature and pass book of the bank with necessary endorsement of the bank that no debit card/Cheque book has been issued, with the Registry of this Bench. The dependent(s) is/are directed to produce the copy of the order passed by the Tribunal before the concerned bank whereupon the bank is directed to make an endorsement on the passbook.

25. The dependent(s) are further directed to submit Form 15G or Form 15H (for senior citizen) to the Presenting Officer of the Railway within the 60 days from this order otherwise the Railway Administration deduct the applicable TDS as per the provisions of the income tax act.

26. The Registry is directed to defer the disbursement of award amount till the passbook of saving bank account of the dependent(s) in a bank near the place of his/her/their permanent residence is not produced along with necessary endorsement.

27. The Registry is further directed to ensure that the statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished by the Bank to the dependent(s).

28. Further, we deem it proper to direct the concerned bank that:

- (a) The Bank shall not permit any joint name to be added in the savings bank account or fixed deposit amount of the dependent(s) i.e. savings bank account of the dependent(s) shall be an individual bank account and not joint account.
- (b) The bank shall not issue any Cheque book and debit card to the dependent(s). However, in case the debit card or Cheque has already been issued, bank shall cancel the same before the disbursement of the awarded amount.
- (c) No loan, advance, withdrawal or premature discharge is allowed on fixed deposit without the permission of the court.

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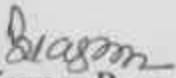
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- (d) The bank shall make an endorsement on the pass book of the dependent(s) to the effect that no Cheque book and/or debit card have been issued.
- (e) The statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished to the dependent(s).
- (f) The Bank is directed not to permit any debit to Saving Bank of dependent(s) from any electronic channel or e-payment platform and to permit the dependent(s) to withdraw money from his/her/their savings Bank Account by means of a withdrawal form only.
29. The Registry is directed to send a free certified copy of this judgment to the Respondent Railway and the dependent(s) at his/her/their postal address mentioned in the claim application by Register A.D. in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989. No order as to costs.
30. In terms of the above, the present claim application is disposed of. ADR/RCT-Ahmedabad is directed to send the original file along with the judgment in sealed covered to RCT-Patna Bench.


(Shiv Kumar Prasad)
Member (Technical)
RCT/Ahmedabad


(Virendra Kumar Goyal)
Member (Judicial)
RCT/Ahmedabad

Judgment pronounced and signed today i.e. on 25.04.2025.


(Shiv Kumar Prasad)
Member (Technical)
RCT/Ahmedabad


(Virendra Kumar Goyal)
Member (Judicial)
RCT/Ahmedabad

Date: 25.04.2025.