



रेल दावा न्यायाधिकरण, पटना

RAILWAY CLAIMS TRIBUNAL, PATNA

No. OA(IIu)/PNBE/156/2021

CORAM: Shri Ram Babu Sharma, Hon'ble Member (Judicial)

Date of Registration: 28.07.2021

Date of decision: 02.05.2025

1. Suresh Yadav

2. Raju Kumar

Both R/o VIII/ Moh: Abgila,
Kopakala Tola,
P.S: Naubatpur,
District- Patna,
Bihar. 801109

... Applicants

Versus

Union of India,

Through the General Manager,

East Central Railway, Hajipur

... Respondent

Claim for ₹ 8,00,000/- with interest.

Appearances:

Shri R.K. Patel

Ld. counsel for the applicant

Shri Radhika Raman

Ld. counsel for the respondent

निर्णय

JUDGEMENT

BY SHRI. RAM BABU SHARMA, MEMBER (JUDICIAL):

1. A claim application has been filed by Suresh Yadav and Raju Kumar before this Tribunal, under Section 16 of the Railways Claims Act, 1987, for the payment of compensation of ₹8,00,000/- (Rupees Eight Lakh only) along with interest on account of death of Shree Mati Devi, allegedly in an untoward incident.
2. The brief facts of the case as stated by the applicants are that on **19.01.2019**, the deceased **Shree Mati Devi**, after purchasing and having a valid 2nd class ordinary ticket from Sadisopur to Patna boarded train no. 63234 Dn (Buxar- Patna passenger train) along with her son namely **Suresh Yadav**. There was heavy rush in the train and due to heavy rush, the deceased and her son was standing near the gate inside the compartment along with her son Suresh Yadav. Due to heavy rush and intense jostling amongst the passengers near the gate of the compartment, the deceased accidentally fell from the said running train at 100 *gaj* east of Sadisopur, between pole no. 565/25 and 565/24. As a result, she (deceased) sustained serious injuries and died on the spot. The co-passenger and other passengers made hue and cry but the said train did not stop. When the said train reached and halted at Neura, the co-passenger/son of the deceased alighted from the train and informed his family members about the incident. Thereafter, co-passenger reached the place of occurrence and found his mother in dead condition. The inquest report was prepared by Rail police in presence of family members of the deceased. Thereafter, the dead body was sent for P.M. examination. On the basis of memo, a U.D. case no. 03/19 dated 19.01.2019 was registered at Rail P.S. Danapur. After post- mortem, the dead body of the deceased was handed over to family members. The journey ticket was lost in untoward incident.

3. On receipt of notice, the Respondent Railway Administration appeared before the Tribunal through its counsel and filed a written statement stating that the para-6 of the claim application was false and fabricated. No ticket was found from the possession of the victim. All the witnesses of the inquest report were not an eyewitness of the incident. The DRM's report clearly indicates that the incident may took place while crossing the railway line by the victim. Hence, the whole story of the claimant was false and fabricated. The deceased did not die in untoward incident. The applicant had not lodged separate FIR for the alleged loss which falsify it. The applicant was not entitled to get any compensation from railway administration. From the sequence of happenings as narrated by the applicant, it was not a case of untoward incident involving railway. Therefore, dismissal of the case was prayed for.
4. Based on rival pleadings the Tribunal framed the following issues for adjudication on 13.07.2022:
- Whether the deceased Shree Manti Devi W/o Late Ram Keval Yadav @ Kewal Yadav was a bona fide passenger of train No. 63234 on 19.01.2019?*
 - Whether the deceased Shree Manti Devi was caused in an untoward incident as defined under section 123 (c) (2) of the Railway Act, 1989?*
 - Whether the applicants are the sole dependents of the deceased Shree Mati Devi?*
 - Whether applicants or all the legal dependents of the deceased Shree Mati Devi are entitled to get compensation, if yes, to what extent?*
5. In support of the claim, the applicants had filed the following documents along with the claim application:

Sr.	Document	Annexures
1.	Certified copy of application	A-1
2.	Certified copy of inquest report	A-4

Sr.	Document	Annexures
3.	Certified copy of station memo	A-5
4.	Certified copy of FIR	A-6
5.	Certified copy of post- mortem report	A-7
6.	Certified copy of dead body challan	A-8
7.	Certified copy of final report	A-9
8.	Photo copy of death certificate	A-10
9.	Photo copy of Aadhar card	A-11
10.	Photo copy of dependency certificate	A-12

6. The applicant, **Suresh Yadav**, AW-1 was cross-examined by Shri Radhika Raman, Railway advocate on 19.01.2023.
7. The respondent filed the DRM's Report along with supporting documents, collectively marked as Ex.R1, but did not adduce any oral evidence.

कारणों सहित निर्णय

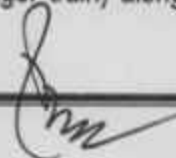
DECISION WITH REASONS

8. Heard the arguments of both the parties and perused the evidence on record. My findings on the issues are as under:

Issue Nos. 1 & 2:

Since these two issues are interlinked, they are being taken up together:

9. The learned counsel for the applicant submitted that on **19.01.2019**, the deceased **Shree Mati Devi**, after purchasing and having a valid 2nd class ordinary ticket from Sadisopur to Patna boarded train no. 63234 Dn (Buxar- Patna passenger train) along with her son namely **Suresh**



Yadav. There was heavy rush in the train and due to heavy rush, the deceased and her son was standing near the gate inside the compartment along with her son Suresh Yadav. Due to heavy rush and intense jostling amongst the passengers near the gate of the compartment, the deceased accidentally fell from the said running train at 100 gaj east of Sadisopur, between pole no. 565/25 and 565/24. As a result, she (deceased) sustained serious injuries and died on the spot. The co-passenger and other passengers made hue and cry but the said train did not stop. When the said train reached and halted at Neura, the co-passenger/son of the deceased alighted from the train and informed his family members about the incident. Thereafter, co-passenger reached the place of occurrence and found his mother in dead condition. The inquest report was prepared by Rail police in presence of family members of the deceased. Thereafter, the dead body was sent for P.M. examination. On the basis of memo, a U.D. case no. 03/19 dated 19.01.2019 was registered at Rail P.S. Danapur. After post- mortem, the dead body of the deceased was handed over to family members. The journey ticket was lost in untoward incident.

10. In addition to averments made in the written statement, learned counsel for the Respondent submitted that the deceased was neither a *bona fide* passenger nor untoward incident occurred. No journey ticket was recovered from the possession of the deceased. From perusal of the DRM's report, it is evident that the deceased was hit by some train while walking on line illegally. There is no eyewitness of the alleged incident. The witnesses of the inquest report were not an eye witness of the alleged incident. Hence, Ld. Counsel for the Respondent submitted that the applicants were not entitled to any compensation claimed for and prayed for dismissal of the claim application.

11. The Railways Act, 1989 defines an untoward incident in Section 123 as the following:

[(c) "*untoward incident*" means—

(1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

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

12. Station Memo issued to GRP/RPF/DNR on 19.01.2019 at 16:50 hrs. mention:

"A/CNC/DNR के आदेशानुसार सूचना मिला की DN Line में कि० मी० 565/26- 565/24 पर एक महिला मृत पड़ा हुआ है उम्र लगभग 50 वर्ष उचित कारवाई हेतु प्रेषित NEO- BTA के बीच में।"

13. The inquest report was prepared on 19.01.2019 wherein column-7, there was no recovery of journey ticket from the possession of the deceased. The column-9 mention " गवाहों के बताये अनुसार मृतका का मृत्यु ट्रेन सं० 63234 डा० बक्सर- पटना पैसेंजर चलती ट्रेन से गिरकर बुरी तरह से जख्मी होने से मृत्यु हुई है। "

14. The Final report submitted by Rail Thana, Danapur concluded:

" ... मृतिका श्री मति देवी उम्र करीब 70 वर्ष पति स्व राम केवल यादव उर्फ केवल यादव का मृत्यु दिनांक 19/1/19 को सदिशोपुर स्टेशन से पटना ... ट्रेन सं० 63234 DN बक्सर पटना पैसेंजर ट्रेन से जाने के क्रम में सदिशोपुर रेलवे स्टेशन से करीब 100 गज पुरब पोल सं० 565/26-24 के बीच चलती ट्रेन से गिरकर बुरी तरह से जख्मी होने से घटनास्थल पर ही मृत्यु होना अंतिम प्रतिवेदन यू०डी० काड सं० 03/19 दिनांक 21.01.2019 को समर्पित करता हूँ। "

15. We shall be guided by the decision of the Hon'ble Supreme Court in the case of Civil Appeal No. 4945 of 2017 dated 09 May 2018, **Union of India vs. Rina Devi**, where it was held:

We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide 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 bona fide 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.

16. Suresh Yadav, AW-1 in para- 2 of his affidavit stated:

"यह कि दिनांक 19.01.2019 को मैं अपनी माता श्रीमति देवी के साथ अपने रिश्तेदार विकास कुमार मु०- राम कृष्णा नगर पटना जाने हेतु हम दोनों घर से सदीशोपुर रेलवे स्टेशन आए और सदीशोपुर रेलवे स्टेशन से पटना जं० का वैद्य रेलवे यात्रा टिकट लेकर मुगलसराय- बक्सर-पटना पैसेन्जर ट्रेन में पटना जं० जाने के लिए सदीशोपुर रेलवे स्टेशन पर सवार हुए थे।"

17. The relevant facts of cross- examination of Suresh Yadav, AW-1 verbatim as follows:

"... मृत्यु के समय मैं माताजी के साथ ट्रेन में यात्रा कर रहे थे। ... मैं पटना जाने के लिए सदीशोपुर स्टेशन आये थे, मैं गांव से ढाई बजे चले थे। हमलोग करीब चार बजे ट्रेन में चढ़े गये थे। हमलोग चार बजे के पहले सदीसीपुर स्टेशन पहुंच गया था। मैं जब पहुंचा तो ट्रेन बक्सर की तरफ से आ रही थी। ट्रेन करीब चार बजे के आसपास आयी थी।..... ट्रेन में पहले हम चढ़े थे उसके बाद माता जी चढ़ी थी।..... टिकट माताजी ने हम दोनों का खरीदी थी। दोनों टिकट उन्हीं के पास था। ट्रेन खुलने के बाद माताजी गिर गयी, मैं माताजी को गिरते हुए अपनी आंखों से देखा था। ..."

18. Suresh Yadav, AW-1 was cross- examined at length but during cross- examination nothing adverse came out against the applicants.

19. It is also noteworthy that Suresh Yadav, AW-1 gave an application to Rail Thana, Danapur regarding the said incident wherein it was mentioned "....हम दोनों दिनांक 19.01.2019 को सदीशोपुर रेलवे स्टेशन से पटना जं० तक उचित रेलवे यात्रा टिकट बक्सर पटना पैसेजर ट्रेन में चढ़े थे"

20. From the facts stated in affidavit and cross- examination, it is crystal clear that Suresh Yadav, AW-1 was co-passenger, eyewitness of purchasing of the ticket by the deceased as well as boarding the train and falling from it. Thus, there is no reason to disbelieve or discard the testimony of Suresh Yadav, AW-1 that he was eyewitness of the purchasing of the journey ticket by the



deceased. Now, the onus is shifted to Respondent to disprove the *bona fide* status of the deceased which is not contradicted by the Respondent, so *bona fide* status of the deceased is proved.

21. The post-mortem was conducted on 20.01.2019 at 03:35 PM. The contents of the report as follows:

" External Injuries:

Lacerated wound 3"x 1"x Cranial Cavity deep blood clots on forehead. Frontal bone was fractured in Multiple pieces. ... arm humerus bone was fractured both legs, femur bone was fractured at the level of hips joint. Lacerated wound 6"x 1" Muscle deep ... blood clots on ... lacerated wound 12"x 6"x abdominal cavity deep ... blood clots on abdomen. Lacerated viseras were coming out.

Time Elapsed Since Death: within twenty four hours of Post Mortem Examination.

In my opinion death is due to haemorrhage & shock leading to Cardio- respiratory failure due to above mentioned anti mortem injuries caused by hard blunt & heavy substance."

22. The DRM's report concluded:

" जांच में पाये गये साक्ष्यों, गवाहों के बयान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतिका श्रीमंती देवी उम्र करीब 70 वर्ष पति स्व० केवल यादव, सा०- अवगिला कापा, था०-नौवतपुर, जिला- पटना जो किसी ट्रेन से यात्रा नहीं कर रही थी और न ही उसके पास कोई रेल यात्रा टिकट पाया गया। घटित घटना का कोई प्रत्यक्षदर्शी गवाह नहीं है। मृतिका की मृत्यु अनाधिकृत रूप से घटनास्थल पर लाईन पर चलने के क्रम में किसी चलती गाड़ी के चपेट में आने से हुई है जो रेल अधिनियम की धारा 147 के तहत अपराध की श्रेणी में आता है। अतः उपरोक्त परिस्थिति में रेल प्रशासन



की कोई जिम्मेवारी नहीं बनती है। घटना रेल अधिनियम की धारा 123 की उप धारा (ग) में परिभाषित अनापेक्षित घटना में वर्णित परिस्थितियों में घटित नहीं हुई है। "

23. The statement of Gate Man given before RPF is annexed with DRM's report wherein it was stated that an old woman was run over by 13250 Dn. On perusal of the documents available on record it is found that the train number mention in inquest report and final report is 63234 Dn. However, respondent railway has not produced the said Gate Man before the Tribunal for his deposition. On the other hand, Suresh Yadav, AW-1 was the eye witness in boarding the train no. 63234. He was cross- examination at length by respondent and during cross- examination Ld. Respondent had not given any suggestions on this point.
24. The DRM's report concluded that the deceased died due to being hit by some train while illegally walking on the line at the place of occurrence. However, the respondent railway has not produced any witness of the said assertions. There is no cogent evidence of runover. Further, inquest report and final report support the version of the applicant rather than respondent.
25. I have given the anxious consideration to the rival submissions and carefully perused the material made available on record on behalf of both the sides and it is concluded that Shree Mati Devi was a *bona fide* passenger and her death occurred due to an untoward incident as a result of an accidental fall from the passenger carrying train within the meaning of Section 123 (c)(2) of the Railways Act, 1989. Accordingly, the issue nos. 01 and 02 are decided in favour of the applicants and against the respondent.

Issue Nos. 3 & 4 :

26. The present OA has been filed by the Suresh Yadav and Raju Kumar for seeking the compensation as being the dependents of the deceased. The applicant had also submitted family member certificate. As per family member certificate Suresh Yadav (son of the deceased) and Raju Kumar (son of the deceased) are shown as the dependents of the deceased. Therefore,

having regard to the fact that the applicants have preferred a claim, which has not been repudiated by the respondent by adducing any contrary evidence, this Tribunal has no other alternative except to hold that Suresh Yadav (son of the deceased) and Raju Kumar (son of the deceased) are the only dependents of the deceased and entitled for compensation. During the pendency of the matter nobody appeared claiming himself/herself to be the dependents of the deceased.

27. Thus, the applicants being the only dependents of the deceased within the meaning of Section 123(b) of the Railways Act, 1989, are entitled to get an amount of ₹8,00,000/- as compensation as prescribed under Part-I of the Schedule appended to Rule 3 (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 (w.e.f. 01.01.2017). The issue nos. 3 and 4 are decided accordingly.

ORDERED

28. The claim application of the applicants is allowed. The respondent Railway Administration is directed to pay ₹8,00,000/- along with interest @ 6% per annum from the date of the registration to date of decision to the applicant(s) as under:

Sl. No.	Name of the Applicant(s)	Relationship with deceased	Age in years	Amount Awarded (Rs.)	Transfer of respective share to the account of party/parties (₹)	Amount to be kept in Fixed Deposit for a period of three years (₹)
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1.	Suresh Yadav	Son	41	₹4,00,000	₹40,000	₹3,60,000
2.	Raju Kumar	Son	38	₹4,00,000	₹40,000	₹3,60,000

29. The respondent Railway Administration is hereby directed to deposit the amount awarded alongwith interest with the Additional Registrar of this Tribunal within a period of 30 days from the date of communication of the award failing which the applicants shall be entitled to receive interest

@ 9% per annum from the date of award till the actual date of depositing the amount with the Additional Registrar. The Additional Registrar also directed to pay compensation amount to the applicants/beneficiaries within 90 days only after completion of all formalities.

30. The applicants are hereby directed to submit the details of their Aadhaar linked Bank accounts of a Nationalized Bank mentioned in the schedule Appendix-I of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, situated nearest to their place of residence to the Additional Registrar of this Tribunal.

31. Terms and conditions:

- a. The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the Claimant(s) i.e. the savings bank account(s) of the Claimant(s) shall be an individual savings bank account(s) and not a joint account(s).
- b. The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the Claimant(s).
- c. The monthly interest be credited by Electronic Clearing system (ECS) in the savings bank account of the Claimant(s) near the place of their residence.
- d. The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of their residence.
- e. No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the RCT.
- f. The concerned bank shall not issue any cheque book and/or debit card to the Claimant(s). 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. The bank shall freeze the



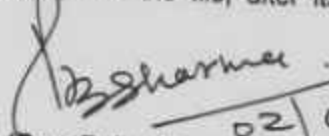
account of the Claimant(s) so that no debit card be issued in respect of the account of the Claimant(s) from any other branch of the bank.

g. The bank shall make an endorsement on the passbook of the Claimant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the RCT and Claimant(s) shall produce the passbook with the necessary endorsement before the RCT on the next date fixed for compliance.

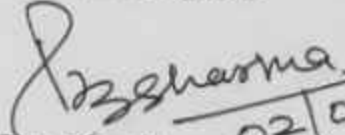
h. It is clarified that the endorsement made by the bank along with the duly signed and stamped by the bank official on the passbook(s) of the Claimant(s) is sufficient compliance of clause (g) above.

i. The concerned Bank of the claimant(s) be directed to permit the claimant to withdraw money from his savings bank account by means of a withdrawal form only.

32. Copy of this order be supplied to both the parties free of costs, and the file, after its due completion, be consigned to the Record Room.


(Ram Babu Sharma)
Member (Judicial)
RCT Patna
02.05.2025

The Judgment has been signed and pronounced in the open court today i.e., on 02.05.2025


(Ram Babu Sharma)
Member (Judicial)
RCT Patna
02.05.2025