

## रेल दावा अधिकरण, पटना पीठ, पटना

BEFORE THE RAILWAY CLAIMS TRIBUNAL: PATNA BENCH, PATNA  
QUORAM: SHRI SYED NISHAT ALI, HON'BLE MEMBER (TECHNICAL)/RCT/NGP  
CIRCUIT BENCH at RCT/PATNA

**CASE No.: OA (IIU)/PNBE/169/2022**

Date of filing - 22.07.2022.

- APPLICANTS:**
1. Nilam Devi w/o Late Upendra Kumar
  2. Shubam Swaraj s/o Late Upendra Kumar
  3. Richa Sharma d/o Late Upendra Kumar
  4. Maya Devi w/o Late Siddheshwar Prasad

All are resident of ward no. 068, Chainpura, Patna  
City, Patna Rural, Begampur, Patna, Bihar-800009.

V/s

**RESPONDENT:** Union of India, through G.M. E.C.Rly., Hajipur.

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

Applicants by Advocate Sanjay Kumar.

Respondent by Advocate Alok Kumar.

### **JUDGEMENT**

1) The applicants have filed a claim application seeking compensation for the unfortunate death of Late Upendra Kumar s/o Late Siddheshwar Prasad alleged to have occurred due to railway accident under Section 16 of the Railway Claim Tribunal Act against the respondent railways.

2) The applicants have filed this original application on the allegations that the deceased having a Monthly Season ticket bearing no. URG

02119005 Ex. Patna Saheb-Danapur railway station, boarded in the general compartment of train no. 12391 Shramjevi Express at Patna Saheb Rly. Stn. on 09.02.2022 and that there was heavy rush inside the general compartment of the said train. Due to heavy rush, pull & push of the passengers as well as jerk of the said train, the deceased accidentally fell down from the said running train at Rajendra Nagar station k.m. 541/1 P.F.no.3 and sustained grievous injuries resulting in the death of the deceased on the same day.

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. Railway administration is not liable to pay any compensation to the applicants. 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. क्या मृतक प्रशनगत रेलगाड़ी का सद्भावी यात्री था?
2. क्या मृतक की मृत्यु से संबंधित घटना रेल अधिनियम 1989 की धारा 123(c) (2) सपठित धारा 124-ए के अंतर्गत परिभाषित अनपेक्षित घटना की परिधि में आती है?
3. मृतक के आश्रित कौन-कौन हैं?
4. यात्रीगण किस उपशम को प्राप्त करने के अधिकारी हैं?



4) The applicant no.1 Nilam Devi was examined 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.

5) I have heard the Ld. Counsels for both the parties and carefully perused entire material placed on record. My findings on the issues involved are as under:-

**Discussion on the issues with reasoning:**

**ISSUE No. 1:**

7) The applicants have filed copy of monthly season ticket of the deceased bearing no. URG 02119005 dated for one adult Ex. Patna Saheb to Danapur Rly. Stn. alongwith his ID card. In the document Inquest Panchnama also it is mentioned that the said monthly seasonal ticket was recovered from the body of the deceased. The same facts are stated by AW-1 in her affidavit that the deceased was a bonafide passenger on the day of incident. Respondent denied that the deceased was a bonafide passenger, however, in DRM report it is mentioned that the deceased was in possession of the aforesaid monthly season ticket and the same has also been verified by Booking Supervisor/Patna Saheb, meaning thereby, the DRM report admits that the deceased was having a valid railway travelling ticket and, as such, he was a bonafide passenger of the alleged train. Applicants has also filed the copy of said Monthly season ticket on record. So the accepted facts that the deceased was having a valid travelling ticket proves this beyond doubt that he was a bonafide passenger. Respondents have not raised any objection to the veracity of ticket. Railway has not disputed this fact and no documentary or other evidence has been produced



to prove that the deceased was not a bonafide passenger. Nothing contrary has been shown on behalf of the respondent railway. Keeping in view the documentary evidence, it is concluded that the deceased was a bonafide passenger of the alleged train. Hence, the issue No. 1 is decided in favour of applicants.

**ISSUE No. 2:**

8) So far as the factum of occurrence of untoward incident is concerned, the memo issued by Station Manager/Rajendra Nagar Station on 09.02.2022 at 10.30 hrs. mentioned that as per the information received from some passengers when the train no. 12391 UP Express started to move, one unknown person aged about 48 years was trying to board the train during which he fell down from the train and died.

In DRM report, a conclusion has been drawn that the deceased was negligently travelling by standing near the door of the compartment due to which he fell down from the train, got injured and died. However, during the course of investigation Railway Police officials had prepared the documents such as Inquest Panchnama and F.I.R wherein it is mentioned that the deceased had fallen down from the alleged train and died. The Police authority has submitted their Final report wherein they have mentioned that the deceased was trying to catch the running train no. 12391 after it started moving during which the deceased fell down from the train in between the platform & railway line, got seriously injured and died.

9) Having heard both the sides and after going through the documents on record, one thing is clear that Respondent has admitted travel of the deceased in the alleged train and his fall from the train. Now question would come whether the deceased was negligently standing near the door of a



moving train as argued by the Respondent or it was an accidental fall from the train and it has become important factor in this case to be adjudicated. Although, Respondent taken this reference of criminal act on the part of the deceased of standing near the door of the train but Respondent has failed to produce any eye witness in support of its defense. On the other hand all the documents placed on record by the applicants mentioned that the deceased had fallen down from the train while he was trying to catch the moving train and died.

As far the negligence of deceased is concerned, the apex court is **CIVIL APPEAL NO. 4945 OF 2018 UNION OF INDIA VS. RINA DEVI** in para No. 16.6 held:-

*"Accordingly we hold that death or injury in the course of boarding or deboarding a train will be an 'untoward incident' entitling a victim to the compensation and will not fall under the proviso to Section 124-A merely on the plea of negligence of the victim as a contributing factor."*

Keeping in view from the above, I feel fair to say that deceased was a bonafide passenger of the train and he died due to accidental fall from the train while trying to board the train during which he lost his balance, fell down between the railway line & platform and died and In view of the above it is held that the deceased accidentally fell down while boarding the alleged train and it is covered under Section 123 (c) (2) of the Railways Act as an untoward incident. Accordingly, the issue No. 2 is decided in favour of the applicants.



**ISSUE No. 3:**

10) The applicant No.1 is the widow of the deceased, applicant no. 2 is the unmarried son of the deceased, applicant no.3 is the unmarried daughter of the deceased and applicant no.4 is the mother of the deceased. The applicants have filed on the record the copies of Aadhar cards of the applicants no. 1 to 4 and Aadhar card of the deceased, death certificate of the deceased, Parivar Patra of applicants. On perusal, these documents prove the relationship between the applicants and the deceased. During the proceedings, no other person staked claim as dependent of the deceased. Even Railway has failed to dispute *inter se* relation of applicants and their relationship with the deceased. Thus, I hold that the applicants no. 1 to 4 are the dependents on the deceased within the definition of Section 123 (b) of the Railways Act, 1989. Hence, this issue is answered accordingly in favour of the applicants.

**ISSUE No. 4**

11) In view of my findings on issue No. 1, 2 and 3, I 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 for which the applicants are entitled to get the statutory compensation for a sum of Rs. 8,00,000/- (Rs. Eight Lakhs only).

**ORDER**

12) 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 interest @



9% per annum on their compensation amount from date of accident till the date of payment.

Accordingly, Respondent Railway is directed to deposit the awarded amount of compensation within 30 days from the date of receipt of this judgment in the Suitors money account being maintained by the Additional Registrar. The compensation amount is distributed as follows:

| Name of Applicants                    | Compensation Amount | Disbursement of Compensation Amount  |                           |
|---------------------------------------|---------------------|--------------------------------------|---------------------------|
|                                       |                     | Cash                                 | Annuity/<br>Fixed Deposit |
| Nilam Devi w/o Late Upendra Kumar     | Rs. 5,00,000/-      | Rs.50,000/- + proportionate interest | Rs.4,50,000/-             |
| Shubam Swaraj s/o Late Upendra Kumar  | Rs. 1,00,000/-      | Rs.10,000/- + proportionate interest | Rs. 90,000/-              |
| Richa Sharma d/o Late Upendra Kumar   | Rs. 1,00,000/-      | Rs.10,000/- + proportionate interest | Rs. 90,000/-              |
| Maya Devi w/o Late Siddheshwar Prasad | Rs. 1,00,000/-      | Rs.10,000/- + proportionate interest | Rs. 90,000/-              |

13) So far as disbursal of the amount of award is concerned, it is noticed that in Geeta Devi v/s 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 .....

14) 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 disbursal 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 21<sup>st</sup> April, 2017, 24<sup>th</sup> May, 2019 and 6<sup>th</sup> 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:-

15) The respondent railway shall deposit the awarded amount, along with 9% interest per annum, in the Suitors money account of 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.

16) 10% of the distributed share of compensation to each Applicant no. 1, 2, 3 and 4 together with accrued interest on their proportionate share of award, shall be released forthwith by ECS/NEFT to them. For applicant no. 1, the remaining amount of Rs. 4,50,000/- (Rupees Four Lakhs Fifty Thousand only) each shall be split into 45 monthly fixed deposits of Rs. 10,000/- (Rupees Ten Thousand only) each and invested for a period of 1 to 45 months in ascending order. For applicant no. 2, 3 and 4 the remaining

amount of Rs. 90,000/- (Rupees Ninety Thousand only) each shall be split into 18 monthly fixed deposits of Rs. 5,000/- (Rupees Five Thousand only) each and invested for a period of 1 to 18 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 accounts of the applicants no. 1, 2, 3 and 4 near the place of their residence.

17) The dependents are hereby directed to submit details of their individual Bank accounts of a nationalized Bank situated near the place of their residence to the Additional Registrar of the Tribunal personally.

18) 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.

19) 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 the Tribunal.
- 20) 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)/RCT/NGP  
Circuit Bench at RCT/PNBE

Pronounced in open Court.  
Nagpur.  
Date: 26.12.2024.  
/SW/