

(PATNA BENCH)

CLAIM APPLICATION No. OA (II U)/PNBE/171/2022

JUDGEMENT PRONOUNCED ON 29TH AUGUST, 2025 AT BANGALORE

CORAM:

1. Mrs. IVY CHARLES D'CRUZ,
Hon'ble Member (Judicial)
RCT, Bengaluru Bench
2. Mr. RAVI NANDKEOLYAR,
Hon'ble Member (Technical)
RCT, Bengaluru Bench

COMMON CIRCUIT BENCH THROUGH HYBRID MODE

BETWEEN

1. Smt. Shushila Devi (Mother)
Aged about 44 Years
W/o. Late Birbal Prasad

R/o. Village/Mohhala-Teni Bigha,
Post Office-Jehanabad, PS-Jehanabad,
District-Jehanabad,
State-Bihar, -804408.

:: Applicants

And

The Union of India
through General Manager,
East Central Railway,
Hajipur

:: Respondent

Amount of compensation claimed Rs.8,00,000/- with interest @ 12% per annum from the date of incident as well as legal expenses

Ld., Counsel Present:

For the Applicant	:	Sri. Ravi Ranjan Kumar
For the Respondent	:	Smt. Poonam Kumari Singh

J U D G E M E N T

IVY CHARLES D'CRUZ
Member (JUDICIAL).

1. This claim application is filed by the Applicants under Section 16 of RCT Act, 1987 read with Section 123(2), 124-A and 125 of Indian Railways Act, 1989 seeking compensation of Rs.8,00,000/- with interest @ 12% per annum from the date of accident from Respondent Railways for the death of Jitendra Kumar

(hereinafter called and referred to as 'deceased' for brevity), who alleged to have died in a Railway untoward incident of accidental fall from the train carrying passengers that occurred on 05.09.2021. Applicant is Shushila Devi (Mother) of the deceased. At the time of incident, deceased was aged 19 years and stated to be 'Student'.

2. Brief facts written in claim application is that, the deceased Jitendra Kumar was going to Patna for his some personal work. On 05.09.2021 the deceased purchased a valid 2nd class ordinary train ticket bearing no. URF14235783 from Jehanabad to Patna junction. The compartment of the said train the deceased was boarding was heavily crowded. Due to the heavy rush, the deceased boarded the train somehow but could not get a seat to sit and was forced to stand near the gate of the train. When the train was running between Jehanabad station to Karona Halt the deceased who was standing near the gate inside the bogie accidentally fell down from the moving train near pole no.44/08, north of Jehanabad Railway station, due to sudden jerk and intense jostling amongst the passengers near the gate on account of heavy rush. (Above mentioned place of untoward incident comes under the jurisdiction of ECR, Hajipur). As a result of which the deceased sustained serious injuries and died on the spot. Some one informed about this untoward incident to the family members of deceased. After getting information, the brother of the deceased namely Birendra Prasad reached place of incident. After seeing the dead body, the brother of deceased identified the dead body as his younger brother namely Jitendra Kumar.

3. In this regard the said brother submitted an application before the S.H.O Rail P.S Jehanabad. On the basis of application, a case no.24/21 has registered at rail P.S Jehanabad on 05.09.2021. The Rail police investigated the matter and found that the factum of occurrence is true and the deceased died in aforesaid untoward incident due to his accidental fall from the said moving train. The deceased was unmarried. In the mourning of son's death, the father of deceased namely Birbal Prasad also died after the death of the deceased on 15.10.2021.

4. In the written statement filed, respondent contended and in Statutory DRM's Investigation Report which was filed, it was concluded that- "based on enquiry, it has come to the conclusion that it is evident at a railway journey ticket number URR 14235783 was found near the deceased Jitendra Kumar, aged about 20 years, Birbal Prasad, Sanibigha Thana, Jehanabad which was



verified by the Commercial Supervisor Jehanabad , in which he stated that the said ticket number URF-14235783 was issued from window no.06 of Jehanabad booking office on 05.09.2021. There is no eyewitness to the incident. The deceased died due to being hit by train number 03264 while unauthorizedly crossing the railway track at the spot.

5. Issues were drawn on 23.06.2023, which read as under:

1. Was a deceased a bonafide passenger of train in question?
2. Whether the event relating to the death of the deceased falls within the ambit of unforeseen event as defined under 123 © (2) read with section 124-A of the Railways Act, 1989?
3. Who are the dependents of the deceased?
4. What relief are passengers entitled to receive?

Issue No.1 and Issue No.2

6. On examination of Statutory DRM's Investigation Report and reading of above material facts of the documents prepared by respondent during the course of investigation, are also taken into consideration. based on enquiry, it has come to the conclusion that it is evident that a railway journey ticket number URR 14235783 was found hear the deceased Jitendra Kumar, aged about 20 years, Birbal Prasad, Sanibigha Thana, Jehanabad which was verified by the Commercial Supervisor, Jehanabad , in which he stated that the said ticket number URF-14235783 was issued from window no.06 of Jehanabad booking office on 05.09.2021. There is no eyewitness to the incident. The deceased died due to being hit by train number 03264 while unauthorizedly crossing the railway track at the spot. Therefore, the incident did not occur under the circumstances described in the unforeseen incident.

7. the deceased Jitendra Kumar was going to Patna for his some personal work. On 05.09.2021 the deceased purchased a valid 2nd class ordinary train ticket bearing no. URF14235783 from Jehanabad to Patna junction. The compartment of the said train the deceased was boarding was heavily crowded. Due to the heavy rush, the deceased boarded the train somehow but could not get a seat to sit and was forced to stand neat the gate of the train. When the train was running between Jehanabad station to Karona Halt the deceased who was standing near the gate inside the bogie accidentally fell down from the moving trin near pole no.44/08, north of Jehanabad Railway station, due to sudden jerk and intense jostling amongst the passengers near the gate on account of heavy rush. (Above mentioned the place of untoward incident is comes under the jurisdiction of ECR, Hajipur). As a result of which the



deceased sustained serious injuries and died on the spot. Over-ruling the said defense plea raised by respondent and keeping in view law laid down by Hon'ble Supreme Court in the case between Union of India Vs. Prabhakaran Vijaya Kumar and Others (2008) 4 MLJ 323 (SC) and Jameela and others v. Union of India AIR 2010 SC 3705 Hon'ble Supreme Court has held that liability of the Railways is strict and it is irrelevant who was at fault. Ratio of said judgments is squarely applicable in the facts of present case.

8. In the regime of strict liability, which cast responsibility upon the Railway under Section 124-A of the Railways Act and in the light of the judgment passed by the Hon'ble Apex Court in Union of India versus Rina Devi, 2018 ACJ 1441, every rash and negligent act of the passenger cannot be treated at par with self-inflicted injury, which is an exception as per proviso to Section 124-A of the Railways Act, 1989. In the said case, it was held that compensation can only be denied if the act of the deceased falls within the gross criminal negligence. In other words, the act of the deceased has to be imprudent, rash and callous. Every rash and negligent act are not sufficient to deny compensation. Therefore, indeed in the present case, the deceased has died in an untoward incident, and therefore his dependent/legal heirs are entitled to receive compensation.

9. Furthermore, Statutory DRM's Investigation Report after considering various documents as well as evidence collected by RPF, came to conclusion Jitendra Kumar, aged about 20 years, Birbal Prasad, Sanibigha Thana, Jehanabad which was verified by the Commercial Supervisor, Jehanabad, in which he stated that the said ticket number URF-14235783 was issued from window no.06 of Jehanabad booking office on 05.09.2021. There is no eyewitness to the incident. The deceased died due to being hit by train number 03264 while unauthorizedly crossing the railway track at the spot.

As such, Issue No.1 and Issue No.2 that the deceased was bonafide passenger and was a victim of an untoward incident, are decided in their favour.

Issue No.3

10. The applicants being dependents of the deceased i.e., Mother of the deceased and in order to prove her dependency/relationship with the deceased,



applicant have produced copy of details of family composition certificate and also Photostat copies of the Aadhar card of the applicant.

No evidence has been adduced on behalf of the Respondent to rebut the case of the applicants on the point of dependency. Moreover, during pendency of the claim application, none else appeared before the Tribunal claiming himself/herself as one of the dependents or the dependent/s of the deceased. Hence, it is held that both the Applicants herein are considered as dependents of the deceased.

Hence, Issue No.3 is accordingly answered in favour of the applicants.

Issue No.4

11. As per GSR 11656 issued by the Ministry of Railways on 22.12.2016, the amount of compensation payable in cases of death due to untoward incidents is Rs.8 Lakhs.

Hence, the present claim Application is allowed, the Respondent are directed to pay a sum of Rs.8,00,000/-plus pro rata interest 6% per annum from the date of registration of the present OA i.e., 29.08.2022 to the applicant as compensation for the death of the deceased on 05.09.2021 untoward incident along with simple interest @ 6% per annum from the date of registration i.e., 29.08.2022 till the date of award. The Respondent shall deposit the amount as per award with Additional Registrar/RCT, Patna Bench within 30 days from the date of receipt of this order. In case of default in payment within the stipulated period, the Respondent shall be liable to pay simple interest @ 6% per annum for subsequent delay.

ORDER

1. The Claim application is '**ALLOWED**' to the extent of payment of Rs. 8,00,000/- (Rupees Eight Lakhs) plus pro rata interest @ 6% per annum from the registration of the present OA i.e., 29.08.2022 till the date of award to the aforesaid dependent of the deceased as compensation. The Respondent shall deposit the amount as per award with Additional Registrar/RCT, Patna Bench within 30 days from the date of receipt of this order. In case of default in payment within the stipulated period, the Respondent shall be liable to pay simple interest @ 6% per annum for subsequent delay.



2. In order to protect claimants from exploitation, GSR No.347 dated 3rd June 2020, has been issued by this Ministry of Railways which has come into effect on 1st day of January, 2020 incorporating it in the Railway Accident and Untoward Incident (Compensation) Rules, 1990.

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-not applicable-

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 v. Union of India*, relating to disbursement of compensation shall be read as part of this rule.

5.4.1 Examination of the Claimant(s) before passing of the award

- (i) RCT shall, before or at the time of passing of the award, examine the claimant(s) to ascertain their financial condition/needs, mode of disbursement and amount to be kept in fixed deposit.
- (ii) Before disbursement of the award amount, the RCT shall direct the claimant(s) to open an individual savings bank account in a nationalized bank near the place of their permanent residence and the concerned bank be directed to not issue any cheque book(s) and/or debit card(s) to the claimant(s) and if the same have already been issued, the bank be directed to cancel the same and make an endorsement on the pass book of the claimant(s) to the effect that no cheque book and/ or debit card shall be issued to the claimant(s) without the permission of the RCT. The concerned Bank of the claimant(s) be directed to permit the claimant(s) to withdraw money from his savings bank account by means of a withdrawal form only. The claimant(s) be directed to produce the copy of the order passed by the RCT before the concerned bank whereupon the bank be directed to make an endorsement on the passbook. The claimant(s) be directed to produce the passbook with the necessary endorsement as well as Aadhar card and PAN card before the RCT on the next date fixed for compliance.
- (iii) RCT shall take the following documents on record from the Claimant(s):
 - (a) Details of the Bank Account(s) of the Claimant(s) near the place of their residence with the necessary endorsement;
 - (b) Aadhar card and PAN card or any other appropriate ID card; and
 - (c) Two sets of photographs and specimen signatures of the claimant(s).

5.4.2 Deposit of the Award Amount

The RCT shall direct the Railways to deposit the amount awarded with the Registrar or RCT within a period of 30 days from the date of communication of the award. At the time of passing the award, RCT shall examine whether the Claimant(s) are entitled to exemption of deduction of TDS and if so, the claimant(s) shall submit Form 15-G or Form 15-H (for senior citizen) to the Presenting Office of the Railways (as applicable under sub-section (2) of Section 19 of the Railway Claims Tribunal Act, 1987) so that no TDS is deducted.

The RCT shall, depending upon the financial status and financial need of the Claimant(s), release such amount as may be considered necessary and direct the remaining amount to be kept in annuity or fixed deposit. For Example, in case of award of compensation of amount of Rs.5.5. lakhs.

- (i) Rs.50,000/- be released immediately and the balance amount to be kept in FDR for five years or such period as the RCT may consider appropriate, on which monthly interest be released to the claimant(s) by transferring the same to his savings bank account; or
- (ii) Rs.50,000/- may be released immediately and the remaining amount of Rs.5,00,000/- may be kept in 50 fixed deposits of Rs.10,000/- each, in the name of the claimant(s), for the period of one month respectively, with cumulative interest.
- (iii) **5.4.4 RCT shall impose the following conditions with respect to the fixed deposits**
 - (a) The Bank shall not permit any joint name(s) be added in the savings bank account of 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 created by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of 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 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 pass book(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.

5.4.5. RCT shall fix a date For Reporting Compliance.

- (i) RCT shall fix a date for reporting compliance, preferably within 90 days of the award itself.
- (ii) Railway shall place on record the proof of deposit of the award amount with up to date interest along with a calculation sheet.
- (iii) Upon such proof being filed, RCT shall ensure that the interest up to the date of notice of deposit has been deposited by the Railways.

5.4.6. Twenty One Banks mentioned in Appendix-I have implemented Motor Accident Claims Tribunal Annuity Deposit (MAC AD) Scheme on the directions of the Delhi High Court in *Rajesh Tyagi v. Jaibir Singh*, FAO No.842/2003. The particulars of the said Scheme are given in Appendix-II All the aforesaid twenty-one banks have been directed to extend the MACAD Scheme to the victims of the untoward incident of Railways. The RCT is at liberty to disburse the award amount through the said Scheme in appropriate cases.

3. In view of the above and considering the status of the deceased's family and to protect the amount from being frittered away, the amount shall be deposited/released in the following manner: -

12. Out of the total compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only), Applicant No.1, Smt. Shushila Devi W/o. Late Birbal Prasad, mother of the deceased shall be entitled to receive a share of compensation amount of Rs.8,00,000/- (Rupees Eight Lakhs Only) along with pro rata interest and the same to be released by ECS/NEFT/RTGS in her Savings Bank account and in the form of deposits in the manner mentioned in following table: -

Name of the Applicant (Shri)	Amount to be paid to the Applicants immediately by ECS/NEFT/RTGS	Amount to be invested in fixed deposit scheme/Annuity scheme of a nationalized Bank
Smt.Shushila Devi, Aged about 44 Years W/o.LateBirbal Prasad Mother of the deceased, Applicant No.1	10% of the total compensation amount i.e., Rs. 80,000/- (Rupees Eighty Thousand only) shall be released to her savings bank account.	Remaining 90% of the total compensation amount i.e., Rs.7,20,000/- (Rupees Seven lakhs Twenty Thousand only) along with its accrued interest, if any, shall be split into 72 fixed deposits of Rs.10,000/- (Rupees Ten Thousand only) invested for a period of 1 to 72 months in the ascending order. The bank shall release the amount with accumulated interest upon maturity of these deposits to the credit of the Bank account of the Applicant.

3. Additional Registrar, Patna Bench, Patna upon deposit of total compensation amount, shall release forthwith by ECS/NEFT transfer to the bank accounts of the Claimants given by them, which are indicated hereinabove.

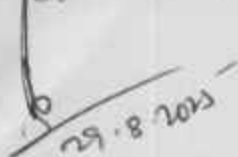
4. Bank Authorities are at liberty to release the Fixed Terms Deposit of the claimant after its maturity without making any reference to this Tribunal.

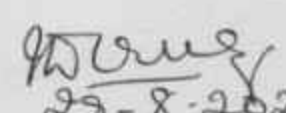
5. The Applicants are further directed to submit Form 15-G or 15-H duly filled in along with Bank Account details of all Claimant/s to the Presenting Officer/RCT.

6. In facts and circumstances of the case, there is however, no order as to costs.

7. Registry is directed to send a free certified copy of this Order to the parties in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

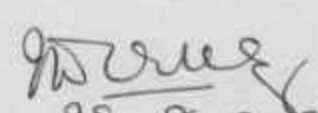
8. With this observation, the application is 'ALLOWED' and disposed off accordingly. File be consigned to Record Room after compliance.


(RAVI NANDKEOLYAR)
MEMBER (TECHNICAL)


29-8-2025
(IVY CHARLES D'CRUZ)
MEMBER(JUDICIAL)

Judgment pronounced in Hybrid Mode on 29TH AUGUST,2025.


(RAVI NANDKEOLYAR)
MEMBER (TECHNICAL)


29-8-2025
(IVY CHARLES D'CRUZ)
MEMBER(JUDICIAL)