BEFORE THE RAILWAY CLAIMS TRIBUNAL

(PATNA BENCH)

CLAIM APPLICATION No. OA (II U)/PNBE/171/2023

JUDGEMENT PRONOUNCED ON 2nd SEPTEMBER,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. Sri.Arvind Kumar Mandal (Husband)
   S/o.Late Narayan Mandal

2. Naina Kumari (Daughter)
   Aged about 09 Years,
   D/o. Arvind Kumar Mandal

   Both are R/o.Tintanga P.O
   Goriar, P.S.Tikaopatti
   Dist, Purnia-854 101. :: Applicants

And

The Union of India
through General Manager,
N.F. Railway, Maligaoh,
Guwahati :: 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 Sanjay Kumar

For the Respondent : Sri. Radhika Raman

JUDGEMENT

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 Usha Kumari (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 20.05.2019. Applicants are Arvind Kumar Mandal (Husband) and Naina Kumari (Daughter) of the deceased. At the time of incident, deceased was aged 34 years and stated to be 'Teacher'.

2. Brief facts written in claim application is that, the deceased Usha Kumari having valid train ticket No.H40929463 date: 20.05.2019 from Purnia to Katihar Junction boarded in the train no.15284, Janki express on same day at Purnia Railway station due to heavy rush pull and push of the passengers as well as jerk of train she accidentally fell down from the said running train at Purnia Railway station on same day and received grievous injuries which resulted to death during course of the treatment at Purnia Sadar hospital on same day. For the same 539/2019 dated: 20.05.2019 U.D.Case no.07/2019 dated: 20.05.2019 under G.R.P.S Purnia, was registered.

3. Issues were drawn on 06.10.2023, which read as under:

1. Was 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

4. On examination of Statutory DRM's Investigation Report, not much is required to be observed and discussed. Cumulative reading of above material facts on the documents prepared by respondent during the course of investigation, would reveal that the deceased person Usha Kumari @ Devi, W/o. Arvind Kumar Mandal, Village-Tintanga, P. S-Tikapatti, Dist-Purnea (Bihar) along with her husband Sri.Arvind Kumar Mandal and her 06 years old child reached at Purnea station on 20.05.2019. They were having Railway

ticket number 40929463 Ex. Purnea junction to Katihar junction. At about 15.20hrs when train no.15284 Janki Express just started from Purnia junction. The deceased person Usha Kumari with her husband and child tried to board in the train. Her husband Sri.Arvind Kumar Mandal and her 06 years old child successfully boarded in the train but deceased person Usha Kumari fall between the gap of train and platform. Resulting she got injured. Immediately with the help of local police, RPF and GRP of Purnia she was shifted to Saddar hospital Purnia for treatment. During the treatment she died on 20.05.2019. In this connection GRP/Purnia registered a case vide no.07/2019 dated: 20.05.2019. As per the GRP/Barsoi the reason of the death was due to fallen down from train, resulting injury and death during the treatment. 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) wherein it has been held that liability of the Railways is strict and it is irrelevant who was at fault. Similarly, in the case of (Jameela and others v. Union of India) AIR 2010 SC 3705 Hon'ble Supreme Court has laid down that even if it were to be assumed that a passenger fell down from the train due to his/her own negligence, it will not have any effect on the compensation payable under Section 124-A of Railways Act, 1989. Ratio of said judgments is squarely applicable in the facts of present case.

5. 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, 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 negligence act are not sufficient to deny compensation. Therefore, indeed in the present case, the deceased has died in an untoward incident, and therefore her dependents/legal heirs are entitled to receive compensation.

6. Furthermore, Statutory DRM's Investigation Report after considering various documents as well as evidence collected by RPF, came to firm conclusion that the deceased person Usha Kumari @ Devi, W/o. Arvind Kumar Mandal, Village-Tintanga, P. S-Tikapatti, Dist-Purnea (Bihar) along with her husband Sri.Arvind Kumar Mandal and her 06 years old child reached at Purnea station on 20.05.2019. They were having Railway ticket number 40929463 Ex. Purnea junction to Katihar junction. At about 15.20hrs when

train no.15284 Janki Express started from Purnia junction, the deceased person Usha Kumari with her husband and child tried to board in the train. Her husband Sri.Arvind Kumar Mandal and her 06 years old child successfully boarded in the train but deceased person Usha Kumari fall between the gap of train and platform. Resulting she got injured. Immediately with the help of local police, RPF and GRP of Purnia she was shifted to Saddar hospital Purnia for treatment. During the treatment she died on 20.05.2019. In this connection GRP/Purnia registered a case vide no.07/2019 dated: 20.05.2019. As per the GRP/Barsoi the reason of the death was due to fallen down from train, resulting injury and death during the treatment. We need not to burden the records by noticing entire factual details as highlighted by both sides in their pleadings raised and documents filed.

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

<u>Issue No.3</u>

8. At this juncture, it is pertinent to mention here that in the present case in hand, which has been preferred before this Tribunal by the applicants being dependents of the deceased i.e., Husband and Daughter of the deceased. In order to prove their dependency/relationship with the deceased, applicants have produced copy of details of family composition certificate and also Photostat copies of the Aadhar cards of both the applicants.

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 Applicant Nos.1 and 2 herein are considered as dependents of the deceased. The delay is condoned interest only after case is registered.

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

<u>Issue No.4</u>

9. As per GSR 1165€ 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 Lakh.

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., 29.08.2018 the applicants as compensation for the death of the deceased in an 20.05.2019 untoward incident along with simple interest @ 6% per annum from the date of registration i.e., 29.08.2018 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.

O R D E R

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., 29.08.2018 till the date of award to the aforesaid dependents 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 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 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.

5.4.3 Protection of the Award Amount

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 tohis 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 shaft 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 upto 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: -

1. Out of the total share of compensation awarded. Applicant No.1, Sri.Arvind Kumar Mandal, S/o.Late Narayan Mandal, Husband of the deceased shall be entitled to receive a share of Rs.2,00,000/- (Rupees Two Lakhs Only) along with pro rata interest and Applicant No.2 Naina Kumari, D/o. Arvind Kumar Mandal, Daughter of the deceased shall be entitled to receive a share of Rs.6,00,000/- (Rupees Six Lakhs only) along with pro rata interest and the same to be released

by ECS/NEFT/RTGS in their 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
Sri.Arvind Kumar Mandal, S/o.Late Narayan Mandal, Husband of the deceased, Applicant No.1	10% of the total share of compensation i.e., Rs.20,000/- (Rupees Twenty Thousand only) plus pro rata interest only shall be released to his individual Saving Bank account	Remaining 90% of the total share i.e., Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) plus pro rata interest if any shall be split into 48 fixed deposits of Rs.3,750/- (Rupees Three Thousand Seven hundred and Fifty only) and invested for a period of 1 to 48 months in the ascending order. The bank shall release the amount with accumulated interest upon maturity of each of these deposits to the credit of the Bank Account of the Applicant No.1.
Naina Kumari, D/o. Arvind Kumar Mandal, Daughter of the deceased, Applicant No.2	Keeping in view the age factor into consideration, the entire share of compensation amount of Rs.6,00,000/- (Rupees Six Lakhs Only) plus pro rata interest payable to her, shall be invested in a fixed term deposit along with its accrued interest in her name in a nationalized bank near to her permanent place of residence, till she attains the age of majority. The bank shall release the amount with accumulated interest upon maturity to the credit of the Bank Account of the Applicant.No.2. During the minority period Applicant No.1 will be entitled to withdraw the quarterly interest for the upkeep of Applicant No.2.	

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.

2/9/2025

(RAVI NANDKEOLYAR)
MEMBER (TECHNICAL)

02-9-2025

(IVY CHARLES D'CRUZ)
MEMBER(JUDICIAL)

Judgment pronounced in Hybrid Mode on 2nd September,2025.

2/9/2025

(RAVI NANDKEOLYAR)
MEMBER (TECHNICAL)

02.9.2025

(IVY CHARLES D'CRUZ)
MEMBER(JUDICIAL)

S.VANITHA, SENIOR STENO-GRADE-I, RCT/BNC