

रेलदावान्यायाधिकरण
RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH, DELHI

HON'BLE SH. RAJEEV JAIN, MEMBER (JUDICIAL) RCT
JAIPUR (Circuit @ Delhi)

HON'BLE SH. RAVINDER GOYAL, MEMBER (TECHNICAL)

Claim Application : OA/IIU/PNBE/179/22
Date of Filing : 11.02.2022
Reserved on : 07.08.2025
Date of Decision : 25.08.2025

1. Sh. Ashok Sah S/o Sh. Ram Pukar Sah, aged 59 years.
(Father of the deceased)
2. Smt. Sunita Devi, W/o Sh. Ashok Sah, aged 52 years.
(Mother of the deceased)

Both R/o of Ward no.09
Naya tol Bhasingpur,
PS- Mohiuddin Nagar,
Raspur patsia, Raspur Patasia
Dist-Samastipur,
Bihar-848503

-----Applicant/s

Versus

Union of India,
Through General Manager,
South Eastern Railway,
11, Garden Reach Road,
Kolkata.

-----Respondent

Claim for Rs. 8,00,000/-



Appearances:-

Sh. Sunil Kumar Singh, counsel for the applicant.

Sh. Radhika Raman, Counsel for the respondent.

निर्णय

JUDGEMENT

By Ravinder Goyal, Member (Technical)

1. The present claim petition has been filed by the Sh. Ashok Sah and Smt. Sunita Devi under Section 16 of the Railway Claim Tribunal Act 1987, read with Section 124-A of The Railways Act, 1989 as amended up to date, seeking compensation to the tune of Rs. 8,00,000/- (Rupees Eight Lakhs Only), along with interest from the respondent railways on for the death of their son Sh. Shashi Kumar (hereinafter stated to be 'the deceased') in an averred untoward incident while traveling by a train.
2. The brief facts of the case, as stated by the applicants in Annexure of their claim application are reproduced hereunder in verbatim:

1. Brief facts and particulars of untowards incident:-

(A) That on 10.08.2019 at about 9.00 p.M. the son of the applicants namely Shashi Kumar accidentally fell down from the train No. 18420 Jay Nagar-puri Express at KM post No. 1029 loop Line No. 01 near L/C Gate No. 16, Narayan gadh during the travelling from Barauni to Balasore. He received Multiple grievous injuries on head and died on spot.

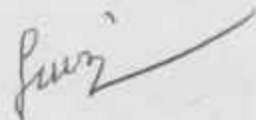
(B) That in respect of an U.D.Case No. 82/2019 has lodged by the Kharagour G.R.ps. and after investigation police has submitted the final report with concluding that it is the case of accidental felling from the moving train.

(C) That deceased shashi Kumar was the bonafide passenger of the train No. 18420, Jay Nagar-Puri Express and he had valid Journey Ticket No. 56611972 dated 10.08.2019 from Barauni to Balasore which Ticket has seized by the GRP Kharagpur. Accident falls under S.E. Rly, Kolkata.

(D) That the deceased shashi Kumar was aged about 21 years and he was unmarried boy."

(reproduced in verbatim)

It is stated in the claim application that the deceased was a bonafide passenger of the train and the incident of fall from train is, within the ambit of Section 123(c)(2) read with Section 124-A of the Railways Act, 1989, and therefore the claimants have sought compensation along with interest from the respondent railway.

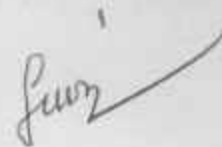


3. Respondent Railway appeared in pursuance of notice issued by the Tribunal and filed its written statement along with statutory DRM's Inquiry Report disputing the claim of the applicants. They have stated in Para 5, 6 & 7 of the written statement as under:

"5. That it is submitted that facts submitted in the O.A and findings came out of the detailed enquiry conducted by the respondent is sufficient to prove that the applicant has filed false and fabricated case on amongst the following ground

- a. That the ticket has been recovered from the possession of the deceased must be verified.*
- b. That Inquest Report has been prepared in presence of those witness who were not eye witness to the incident.*
- c. That it is submitted that the deceased was habitual to consume "Gutka" and E.O did not found any evidence that the deceased Shashi Kumar fallen down from running train*
- d. That this incident is happened only due to fault and negligence of deceased.*

6. That with regards to averment made in Column I paragraph no.7 of the O.A it is stated that the applicants shall be called upon to prove that deceased was bonafide passenger having valid journey ticket.



7. That the applicant is legally not entitled to any relief as claimed in Column VII of the claim application. In view of the facts stated above the respondent railway cannot be saddled with any liability and the applicants is not entitled to get any compensation under the Railways Act, 1989."

(reproduced in verbatim)

4. Based upon the above and the pleadings of the parties, following issues were framed by the Tribunal for adjudication on 23.06.2023 :-

1. क्या मृतक प्रश्नगत रेलगाड़ी का सद्भावी यात्री था?
2. क्या मृतक की मृत्यु से सम्बन्धित घटना रेल अधिनियम 1989 की धारा 123 (C) (2) सपठित धारा 124-ए के अन्तर्गत परिभाषित अनपेक्षित घटना की परिधि में आती है।
3. मृतक के आश्रित कौन-कौन हैं?
4. यात्रीगण किस उपशम को प्राप्त करने के अधिकारी है?

5. In order to prove the case on behalf of the applicants, Sh. Ashok Sah filed his affidavit before the Tribunal on 03.10.2023, reiterating the same facts as pleaded in the original claim application. He was examined as AW-1 and was duly cross-examined by respondent counsel.

FINDINGS

6. We have gone through the case file carefully and perused the pleadings of the parties, material available on record, evidence adduced on behalf

of the applicants/respondent and heard the arguments put forth by the Learned Counsels for the parties. Our findings on the aforesaid issues are as under:

ISSUE NO. 1 & 2:-

We shall take up both the issues together as they are interconnected:

7. It is the claim of the applicants that their son Shashi Kumar, (hereinafter called deceased) accidentally fell down from the train no. 18420, Jaynagar-Puri Express at KM Post no. 1029 loop Line no. 01 near L/C gate no. 16 of Narayan Gadh station during his travelling from Baruni to Balasore. Further, it is claim of the applicants that their son was travelling in the averred train on the strength of a valid journey ticket no. 56611972 dated 10.04.2019 from Baruni to Balasore and further this ticket was recovered from his body after the incident.
8. To adjudicate on the issue of whether the deceased was a bonafide passenger or not and whether his death was a result of an untoward incident or not, certain documents of the respondent railway are referred to as under:
 - a. On the date of the incident i.e. 10.08.2019, a memo was issued by AOM/KGP to KGP GRP which reads as under :

"As reported by on duty gate keeper LC gate no.-16 at KM-138/25-27 at 21:00 that one male dead body aged about 35 years lying over NYA Yd Up line. Body lying o/s the track.

Please arrange to remove as early as possible."

(reproduced in verbatim)

- b. Based on this memo, further proceedings in this case were done and the deceased was sent to the hospital. His Post-Mortem was conducted at Kharagpur S.D. Hospital on 11.08.2019. When the body of the deceased was discovered, a Seizure list was prepared by the ASI, Kharagpur GRPS and the following articles were seized from the body of the deceased:

"1. One grey color money purse.

2. Aadhar card of Shashi Kumar S/o Ashok Kumar of Bhasgingpur, Mohiuddin Nagar, Dist-Samastipur,

3. Voter card of do.

4. **one railway journey ticket from Baruni Jn. To Balasore vide no. URD 56611972 dt. 10-08-2019 at 08:30 hrs.**

5. one teckmax 37 mini mobile phone....."

(reproduced in verbatim)

9. In the Statutory DRM Report, following conclusion has been drawn in this case:

"From the above enquiry, records, circumstances and available evidence it came to light that, deceased person was a bonafide passenger but there is no eye witness found for fallen down by him from T/No. 18420 (Jaynagar-Puri Exp.). Hence, the said incident took place due to the own fault/negligence of the deceased, So, Railway administration is not responsible for his death from any corner."



7



- (reproduced in verbatim)
10. Further, the investigating Officer of the case Sh. A.K. Hati/ASIPF/RPF/Post/Hijli has drawn the following conclusion:

"From the above inquiry, records, circumstances and available evidence and statement of parent of deceased it is very clear that the deceased was habitual to consume "Gutka" and E.O did not found any evidence that the deceased Shashi Kumar fallen down from running train. If deceased fallen down from running train than it is only his fault, as he had gone at main gate of coach of said train to spit Gutka instead of wash room/basin. Hence this incident is happened only due to fault and negligence of deceased Shashi Kumar."

(reproduced in verbatim)

11. It has been accepted in the inquiry report of the Investigating Officer that the deceased was a bonafide passenger. This fact is also confirmed by the ticket recovered from the body of the deceased which has been verified to be true by the respondent railway.
12. The station where the body of the deceased was found i.e. Narayan Gadh station is on the route of train no. 18420 (Jaynagar-Puri Express). Further, the originating and terminating stations mentioned in the ticket recovered from body of the deceased are on the route of the train no. 18420.
13. From these facts, it is obvious that there can be no other reason of recovery of the body of the deceased at Narayan Gadh station unless he

was actually travelling on that route. The only plea which has been taken by the respondents and the respondent counsel during the arguments is that the deceased fell down from the train due to his own negligence and respondent railway is not responsible for this.

14. It would be apposite here to reproduce the landmark judgment of Hon'ble Supreme Court of India in UOI Vs. Rina Devi in CA 4945 of 2018 wherein it has been held that death/injuries due to accidental fall from the train will be treated as an untoward incident and in the regime of strict liability, negligence of the victim cannot be used as a plea to deny compensation. The relevant Para is reproduced as under:

"16.6 We are unable to uphold the above view as the concept of 'self inflicted injury' would require intention to inflict such injury and not mere negligence of any particular degree.

Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on 'no fault theory'. We may in this connection refer to judgment of this Court in United India Insurance Co Ltd., versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on 'no fault theory' under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor."

15. Accordingly, the argument by the respondents that the incident is a result of the negligence on the part of the deceased is not tenable in the regime of strict liability.
16. Based on the above discussion, we hold that the death of the deceased occurred due to fall from the running train no. 18240 on which he was a bonafide passenger and accordingly, an untoward incident is made out under Section 123(C)(2) of the Railway Act 1989. **Hence, the Issues No. 1 & 2 are decided in favor of the applicants and against the respondent railway. The issues are answered accordingly.**

Issue No. 3&4 : -

17. The applicants have filed on record the attested copies of their Aadhar Cards. The same proves the relationship of the applicant with the deceased. Thus, the applicant, being parents of the deceased, are held to be the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act, 1989.

ORDER

18. Hence, the claim application is allowed and the respondents are directed to pay a sum of Rs.8,00,000/- (Rupees eight lakhs only) to the applicants along with 9% simple interest.



19. Further, we find from the record that an order was passed on 23.09.2022 which reads as under:

रेल अधिनियम 1989 की धारा 17 (2) के अंतर्गत दाखिल विलंब क्षमा प्रार्थनापत्र को सुना गया।

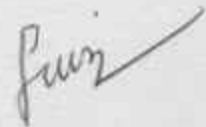
विलंब क्षमा प्रार्थनापत्र में यह कहा गया है कि प्रार्थी को अशिक्षित एवं गरीब होने के कारण दावा प्रस्तुत करने में लगभग एक वर्ष पांच माह का विलंब हुआ है। प्रार्थी द्वारा दावा आवेदन पत्र दाखिल करने में हुए विलंब को क्षमा करने की प्रार्थना की गयी है। विपक्षी ने मौखिक बहस में कहा है कि प्रार्थी द्वारा दाखिल आवेदन पत्र पोषणीय नहीं है। अतः इसे खारिज की जाये।

अभिलेख अवलोकन से यह विदित होता है कि प्रसंगत घटना दिनांक 10.08.2019 को घटित हुई थी, दावा आवेदन दाखिल करने की समय सीमा दिनांक 09.08.2020 तक था। प्रार्थी द्वारा प्रस्तुत वाद लगभग एक वर्ष पांच माह के विलंब के साथ दिनांक 11.02. 2022 को दावा आवेदन पत्र दाखिल किया गया है। उच्चतम न्यायालय ने दिनांक 15.03.2020 से 18.02.2022 तक की समय सीमा को COVID Period माना है। विलंब की अवधि और विलंब क्षमा प्रार्थनापत्र में दर्शाये गये कारणों को ध्यान में रखते हुए न्याय हित में प्रार्थी का विलंब क्षमा प्रार्थनापत्र स्वीकार किया जाता है। यदि इस वाद का निर्णय प्रार्थी के पक्ष में किया जाता है तो प्रार्थी को आज की तिथि से ब्याज देय होगा। रजिस्ट्री को यह निर्देश दिया जाता है कि इस वाद का पंजीकरण करें।

विपक्षी एस ई रेलवे को यह निर्देश दिया जाता है कि लिखित दस्तावेज, DRM Report के साथ दिनांक 28.11.2022 को दाखिल करें।

In view of this order, the interest will be applicable from 23.09.2022.

20. Respondent is directed to pay the amount of compensation in the suitor's money account of the Patna Bench of this Tribunal within one month from date of receipt of certified copy of this order, failing which,



they will be liable to pay simple interest @ 9% per annum for any subsequent delay.

21. So far as disbursal of the amount of award is concerned, we have heard the learned counsel for the parties.
22. We may notice that in Geeta Devi Vs Union of India, Delhi High Court has observed as under: -

"5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 5.1. 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 Nationalised 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 in the manner set out below:-

5.2. Insert following Rule 5 after Rule 4:-

Rule 5: Mode of payment--(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 sub-serve justice.

(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.

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."

In pursuance of the orders passed by the Delhi High Court, recently, Government of India has issued a Notification of 3rd June, 2020 amending Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, amending Rule 5 which 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.

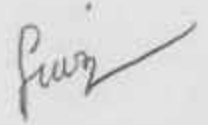
5.2 If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance.

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 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 Vs Union of India, relating to disbursement of compensation shall be read as part of this Rule."

23. Therefore, relying upon the judgement rendered by the Delhi High Court in the case of Geeta Devi (supra) and in pursuance of Rule 5 quoted above, in the present case, the amount of award along with the interest shall be disbursed in the following manner: -

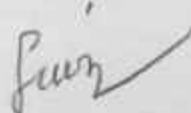
24. From out of the total compensation amount of Rs 8,00,000/- (Rupees Eight lacs only) Applicants no. 1 & 2, Sh. Ashok Sah and Smt. Sunita



Devi i.e. parents of the deceased, shall receive Rs. 4,00,000/- (Four Lacs only) each with accrued interest.

25. 10% of the respective share of the applicants along with proportionate interest shall be released forthwith by ECS/NEFT transfer to their respective savings bank account. Rest of their share together with accrued interest, if any, shall be invested in respective FDR for a period of three years in their name in a Nationalised Bank, near to the place of her residence, with monthly payment of accrued interest to them.
26. Addl. Registrar, Railway Claims Tribunal, Patna Bench will verify the details of the bank account of the awardee before making payment. Further to that, the bank should also be directed not to allow any loan, advance, withdrawal or premature discharge on the fixed deposit without permission of the Tribunal. The bank account should be in a Nationalised Bank near their place of permanent residence.
27. The application is allowed in the above terms. No order as to costs.


(Rayinder Goyal)
Member (Technical)


(Rajeev Jain)
Member (Judicial)
RCT JP @ DLI