

Mr. JUSTICE KANWALJIT SINGH AHLUWALIA, HON'BLE
CHAIRMAN

Ms. ROOPA SRINIVASAN, HON'BLE MEMBER
(TECHNICAL)

Case No. : OA/II(U)/PNBE/208/2021

Date of filing : 21.08.2019

Date of Decision : 06.08.2025

1. Sh. Rakesh Kumar,
S/o Sh. Ramabatar Prasad
2. Abhishek Kumar,
minor S/o Sh. Rakesh Kumar
3. Rounak Kumar,
minor S/o Sh. Rakesh Kumar

(S. No. 2 & 3 are minor and represented through their father and natural guardian)

All R/o-
Village - Tikulia Par, Post Office-Nagawa,
Police Station - Kako,
District-Jehanabad, Bihar- 804420

... Applicants

Versus

Union of India,
Represented through:
General Manager, East Central Railway,
Hajipur, Bihar.

Roopa Srinivasan

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...Respondent

Sh. Ravi Ranjan Kumar, Counsel for the applicant through virtual mode.

Sh. Ashok Kumar Verma, Counsel for the respondent through virtual mode.

JUDGMENT

Kanwaljit Singh Ahluwalia, Chairman:-

1. Smt. Indu Kumari @ Indu Devi on 22nd August 2018 after purchasing a valid second-class ordinary train ticket undertook a journey from Taregna station to Jehanabad station. She boarded Patna-Gaya passenger train at Taregna. She was returning from her maternal home to her matrimonial home. Her brother Arvind Kumar had come to Taregna railway station to see her off.
2. It is a further case of the applicants that there was a heavy rush and overcrowding in the train. As a result thereof, Indu Kumari @ Indu Devi could not get the seat in the coach and she was compelled to stand near the gate of the compartment. It is pleaded that since she was travelling on the gate of the compartment, she suddenly fell from the running train near pole no. 43/17 on the UP line.
3. The present claim application has been filed by husband and two minor sons of Indu Kumari @ Indu Devi (hereinafter called 'deceased'). The present claim application has been filed under section 16 of the Railway Claims

Kanwaljit Singh Ahluwalia

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Tribunal Act by Rakesh Kumar husband, Abhishek Kumar and Ronak Kumar, two minor sons, aged 3 and 1 years respectively through their legal guardian and father Rakesh Kumar. They have prayed that since deceased was a bonafide passenger and died in an untoward incident, compensation be awarded.

4. Notice of the claim application was issued, respondent filed written statement along with the report of DRM. In paragraph 6 of the written statement, it is averred as under:-

"6. That it is stated that on 22.08.2018 at about 13:35 o' clock Deputy Station Manager, Jehanabad informed vide his memo to G.R.P., Jehanabad that a dead body of unknown lady aged about 35-40 years is lying besides railway track at towards 100 meter south of village- Kanaudi at K.M. 43/17 Up-line and accordingly G.R.P. Jehanabad registered a U.D. Case No.32/2018." (reproduced in verbatim)

5. In the statutory report of DRM, it is noted that Deputy Station Manager, Jehanabad had sent a memo to GRP, Jehanabad wherein information was relayed that one unknown woman, aged 35/40 years, had died having fallen from the train. The memo issued by Deputy Station Manager, Jehanabad on 22nd August, 2018 at 13:35 hours reads as under:-

“सेवा में
GRP/RPF/JHD

आपको सूचित किया जाता है कि एक अज्ञात औरत जिसकी उम्र 35/40 वर्ष लगभग होगी किसी ट्रेन से गिरकर मृत्यु हो गई है जहानाबाद कनौदी के किलोमीटर 43/18-20 UP Line में है यह Line से बाहर है इसकी सूचना Key Man फकीरचंद द्वारा दी गई है आवश्यक कार्यवाही हेतु आपको सूचित किया जाता है

Rajendra Kumar

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आपका विश्वासी
दिलीप कुमार
स्टेशन प्रबंधक
जहानाबाद

6. The Tribunal after hearing counsel for the respondent, on 24th June 2022,

formulated following issues for adjudication:-

- "1. Whether the deceased Indu Kumari @ Indu Devi H/o Rakesh Kumar was a bona fide passenger know train on 22.08.18.*
- 2. Whether the death of the deceased Indu Kumari @ Indu Devi was caused in an untoward incident as defined under Section 123 (c) (2) of the Railways Act, 1989?*
- 3. Whether the applicants are the sole dependents of deceased Indu Kumari @ Indu Devi ?*
- 4. Whether applicants or all the legal deceased Indu Kumari @ Indu Devi compensation, if yes, to what extent? dependents of the are entitled to get*
- 5. Relief?"*

7. Rakesh Kumar, husband of the deceased, appeared before the Tribunal as AW-1. He tendered his affidavit towards examination-in-chief. In Para-3 of the affidavit, it is specifically stated that the deceased wife of the deponent on 22nd August 2018, in presence of her brother Arvind Kumar, had purchased a valid journey ticket from Taregna station to Jehanabad. Arvind Kumar, brother of the deceased, also appeared before the Tribunal. He was examined as AW-2. In his affidavit filed towards examination-in-chief, in Para-4 he specifically stated that his sister was going to Jehanabad and had purchased a journey ticket and had boarded Patna-Gaya passenger train. In cross-examination, the respondent failed to cause any dent in the testimony of both the witnesses, so far purchase of a valid journey ticket is concerned.
8. We have heard counsel for the parties and have gone through the entire records of the case.

FINDINGS: -

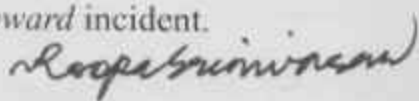
Rakesh Kumar

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9. We shall take up Issue Nos. 1 and 2 together as both issues are interconnected on facts and submissions advanced before the Tribunal. In the opening paragraph of the DRM report, it has been stated as under:-

“विषयांकित के सम्बन्ध में सूचित करना है कि उक्त मामले की जांच नि.प्र./ जहानाबाद को भेजा गया था, जिसकी जांच वीणा कुमारी, उनि/रेसुब/जहानाबाद के द्वारा कराया गया, जिन्होंने अपनी जांच रिपोर्ट पत्र सं० नि.प्र./रेसुब/सीआर-42/2021/301 दिनांक 30.11.2021 के माध्यम से समर्पित किया है जिसमें उन्होंने जांच कर बताये हैं कि दिनांक 22.08.2018 को समय 13.35 बजे उप स्टेशन प्रबंधक / जहानाबाद ने जीआरपी / जहानाबाद को मेमों द्वारा सूचित किये हैं कि एक अज्ञात औरत जिसका उम्र लगभग 35-40 वर्ष होगी किसी ट्रेन से गिरकर मृत्यु हो गयी है। उक्त सूचना पर जीआरपी / जहानाबाद द्वारा घटनास्थल ग्राम कनौदी से उत्तर करीब 100 गज किमी सं० 43/17 अप रेलवे लाईन से सटे पूरब पहुंचकर मृतिका इन्दु कुमारी उम्र करीब 23 वर्ष पति राकेश कुमार, सा० टिकुलिया, था० काको, जिला- जहानाबाद का शव चित अवस्था में पाया गया, जिसका दोनों पैर कटा हुआ, सर फटा हुआ का मृत्यु समीक्षा रिपोर्ट दो गवाहों के उपस्थिति में बनाया गया, जिसके पास से पहने हुए कपड़े के अलावा कोई अन्य सामान व रेल यात्रा टिकट नहीं पाया गया। शव का अत्यपरीक्षण सदर अस्पताल / जहानाबाद भेजकर कराया गया, जिस सम्बन्ध में जीआरपी / जहानाबाद द्वारा यूडी कांड सं० 32/18 दिनांक 22.08.2018 कायम कर जिसकी जांच की जिम्मेबारी सुनील कुमार, सअनि/जीआरपी / जहानाबाद को दिया गया, जो अपने जांच के समर्पित अंतिम प्रतिवेदन में मृतिका की मृत्यु का कारण किसी ट्रेन से गिरने एवं गम्भीर जख्मी होने से बताया है।” (reproduced in verbatim)

10. In the Panchnama, in Para 8, it is specifically opined by the *Panchas* that the death had occurred as a result of a fall from the train. We have already specifically referred to the memo issued by Dy. Station Manager on 22nd August 2018 at 13:35 hours, where it is stated in categorical terms that one woman was found dead as a result of fall from the train. Similar is the opinion of *Panchas* in the Panchnama and on the basis of these two documents, we have no hesitation except to hold that the deceased died in an untoward incident.





11. Rakesh Kumar, AW-1, husband of the deceased and Arvind Kumar AW-2, brother of the deceased have specifically stated that the deceased had purchased a journey ticket while travelling in Patna-Gaya passenger train as a bonafide passenger. This part of the testimony of both the witnesses could not be assailed in cross-examination.

12. Hon'ble Supreme Court in *Union of India Vs. Rina Devi (2018 ACJ 1441)* has observed as under:-

"17.4 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. The legal position in this regard will stand explained accordingly."

13. On the touchstone of the observations made by the Hon'ble Supreme Court in *Rina Devi (supra)* and in view of the specific deposition made in the affidavits of AW-1 & AW-2 that the deceased had purchased journey ticket for undertaking the journey in question, we have no hesitation but to hold that the deceased was a bonafide passenger of the train in question and his death has taken place on account of an untoward incident. Thus, Issue Nos. 1 & 2 are decided in favour of the applicants and against the respondent.

Issue Nos. 3 & 4: -

Respectfully submitted

[Signature]

14. The applicants have filed on record the copies of their Aadhar Cards, Birth Certificate and the Aadhar Card of the deceased Indu Kumari @ Indu Devi issued by the Government of India. The contents thereof prove the relationship of the applicants with the deceased. Thus, the applicants, being husband and two minor children are held to be the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act, 1989.

ORDER

15. Hence, the claim application is allowed and the respondents are directed to pay a sum of Rs.8,00,000/- (Rupees eight lacs only) to the applicants along with 9% simple interest from the date of incident till today. Respondent is directed to pay the amount of compensation in the suitor's money account of the Patna Bench of this Tribunal at Patna 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.
16. So far as disbursal of the amount of award is concerned, we have heard the learned counsel for the parties.
17. 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

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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."

18. 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

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the present case, the amount of award along with the interest shall be disbursed in the following manner: -

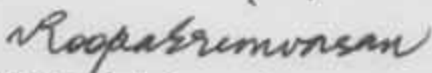
19. From out of the total compensation amount, Applicant No. 1 Rakesh Kumar shall receive a sum of Rs 2,00,000/- (Rupees Two lacs only) with accrued interest. Rest of the applicants i.e applicant Nos. 2 & 3, Abhishek Kumar & Rounak Kumar, minor sons of the deceased respectively, shall receive Rs. 3,00,000/- (Rupees Three Lakh only) each with accrued interest.
20. 10% of the share of applicant No. 1 along with accrued interest shall be released forthwith by ECS/NEFT transfer to his respective savings bank account. Rest of his share together with accrued interest, if any, shall be invested in FDR for a period of three years in his name in a Nationalized Bank, near to the place of his residence, with monthly payment of accrued interest to him.
21. As regards the amount of compensation payable to applicant Nos. 2 & 3, minor sons of the deceased, the entire amount payable to them shall be invested in FDRs in their respective names under the guardianship of their father, Sh. Rakesh Kumar in a nationalized bank, near to the place of their residence for the period till they attain the age of 18 years respectively with monthly payment of interest accrued on the FDRs to applicant No. 1 for the maintenance and welfare of his children. On maturity, the amount payable along with accrued interest, if any, shall be credited to the bank account of

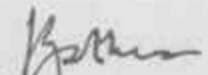
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applicant Nos. 2 and 3 to be furnished by their mother and upon duly verified by Additional Registrar, Railway Claims Tribunal, Patna Bench.

22. Addl. Registrar, Railway Claims Tribunal, Patna Bench, Patna 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.
23. The bank account should be in a Nationalised Bank near their place of permanent residence.
24. The application is allowed in the above terms. No order as to costs. In consonance with the provisions as laid down in Rule 5.4.5 of the Railway Claims Tribunal (Compensation) Rules 1990, Registry is directed to list the case on 06.11.2025, before Payment Court Patna for disbursal of the amount of award, deposited by the respondent in the suitor's money account of Additional Registrar of Patna Bench.
25. The application is allowed in the above terms. No order to costs.


(Roopa Srinivasan)
Member (Technical)


(Kanwaljit Singh Ahluwalia)
Chairman

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