

BEFORE RAILWAY CLAIMS TRIBUNAL, PATNA BENCH

Coram: Shri Sanjay Singh Gehlot, Hon'ble Vice-Chairman,
RCT/Kolkata at RCT/Patna
Shri S.D. Sharma, Hon'ble Member(Judicial),
RCT/Kolkata at RCT/Patna

Claim Application No. OA(IIU)/PNBE/213/2023

(Application filed on 26.12.2022 & decided on 11.04.2025)

- 1) Dhanraj Devi, wife of the deceased Ram Prasad Sah
- 2) Rekha Kumari Sah, daughter of the deceased Ram Prasad Sah
- 3) Puja Kumari Sah, daughter of the deceased Ram Prasad Sah
- 4) Chanda Kumari Sah, daughter of the deceased Ram Prasad Sah
- 5) Sumit Sah, minor son of the deceased Ram Prasad Sah

All are residing at :

Vill. Binnaguri, Supply Colony,
P.O. Binnaguri, P.s. Banarhat,
Dist. Jalpaiguri,
West Bengal.

..... Applicants

-VS-

Union of India represented through

The General Manager, N. F. Railway, Maligaon Respondent.

Application under Section 16 of Railway Claims Tribunal Act, 1987 read with
Sections 123(c)(2) and 124-A of Railways Act, 1989.

Claim for Rs.8,00,000/- with interest and costs

Shri N. K. Burma Ld. Counsel for the applicant.

Shri Radhika Raman, Ld. Counsel for the respondent

JUDGEMENT:

1. This is an application under Section 16 of Railway Claims Tribunal Act, 1987 read with Sections 123(c)(2) and 124-A of the Railways Act, 1989 filed by the applicant for herself and also on behalf of her three daughters and

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one minor son as dependants claiming compensation on account of the death of her husband Ram Prasad Sah allegedly in an Untoward Incident of accidental falling from a train. It is pleaded in the claim application that on 06.02.2020 the deceased for coming to his house at Binnaguri came at Jodhpur station and after purchasing a ticket boarded an unknown train. After boarding the train, he made a telephone call to the applicant that after purchasing a ticket from Jodhpur he boarded a train. He also informed his wife that there was no direct train from Jodhpur to New Jalpaiguri and so he had to change his train. On 08.02.2020 night the applicant talked to her husband over phone when the deceased told her that he reached Katihar and purchased a ticket for New Jalpaiguri for coming to New Jalpaiguri by any available train. On 09.02.2020 at about 3 a.m. the deceased made a telephone call to his daughter Rekha Kumari when the applicant talked to the deceased for the last time. When the applicant again tried to talk to her husband over mobile phone in the morning, his mobile phone was switched off. Then the applicant and his family members tried to contact the deceased over his mobile phone several times, but his mobile phone remained switched off. At about 3 p.m. on 09.02.2020 the applicant got a telephone call from GRPS/Katihar over her mobile phone(whose number was mentioned in a small diary that the deceased was carrying) that her husband fell down from a train and died. Then the applicant, her daughters, son and relatives started for GRPS/Katihar. On 10.02.2020 they reached GRPS/Katihar and identified the deceased. One U/D case No.05/2020 dated 09.02.2020 was registered by GRPS/Katihar.

2. The respondent railway has filed a Written Statement disputing and denying the averments made in the claim application. The respondent mentioned that the deceased was not a bona fide passenger as no ticket was found from him during the inquest. There was no eye-witness to the alleged incident. The inquest report was prepared in presence of those who were not



eye-witnesses. There is no witness who saw the deceased boarding any train and falling from it. So, it was prayed for dismissal of the claim application.

3. The issues in this case were framed on 14.04.2024. However, for proper adjudication of the case, the issues are recast as under:-

1. Whether the deceased was a bona fide passenger?
2. Whether the death of the victim was caused in an untoward train incident coming under the purview of Section 123(c)(2) of the Railways Act, 1989?
3. Whether the applicants are the dependents of the deceased and whether they are entitled to get compensation?
4. Relief, if any.

4. The applicant No. 1 Dhanraj Devi filed her affidavit of evidence and she was cross-examined by Ld. Counsel for the respondent as AW/1.

The respondent railway filed a report of DRM/Katihar and its annexures.

5. Ld. Counsels for the rival parties submitted their respective oral arguments. After appreciating the arguments of the parties and perusing the record, we determine the issues as under :-

Issue No.2

For proper adjudication of the case, this issue is taken up first.

6.0 In her affidavit of evidence, the applicant reiterated the facts of the case. During her cross-examination, the applicant(AW/1) deposed that when the



alleged incident happened she was at her home and her knowledge about the incident was based on hear-say.

6.1 Station Manager, Katihar on 09.02.2020 at 13.00 hrs. gave a memo to the OC/GRP/Katihar & OC/RPF/Katihar mentioning that as reported by SM/Labha, an unknown male person aged about 55 years was lying dead at KM post no.20/07-08 under Bridge No.9 between Pranpur and Labha. This memo was treated as a FIR by GRPS/Katihar and they registered U/D case no.05/20 dated 09.02.2020. GRPS/Katihar held an inquest at the spot and filed an inquest report. In the inquest report, it was mentioned that the deceased fell down from an unknown train and succumbed to his injuries at the spot. As per pleading of the applicant, the deceased had no co-passenger and no eye-witness to the incident. The inquest report was signed by one Surender Mondal and one Abdul. On the basis of their opinion, the I.O. of the GRP/Katihar mentioned that the deceased fell down from a train. The applicant failed to produce and examine the inquest witnesses before the Court. Moreover, the I.O. of GRPS did not record the statements of the inquest witnesses required under Section 161 of CrPC. There is no direct evidence before the Court as to on what basis the I.O. of the GRP opined that the deceased fell down from a train. The Final Police Report also appeared to be the reiteration of the Inquest report. Hence, it is held that the Inquest report and Final Police Report as to the cause of death of the victim were based on assumption and presumption and the same cannot be given cognizance to.

6.2 The DRM/Katihar's report mentioned that " the deceased person namely Ram Prasad Sah was coming from Jodhpur by any train on 09.02.2020 and he accidentally fell down under Bridge No.09 at KM no.20/7-8 between Pranpur and Labha railway stations. No journey ticket or any valid document regarding the journey of the deceased

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person was found so it could not be ascertained by which train the deceased was travelling. "

6.3 The DRM's report appeared to be contradictory. On one hand, it is mentioned that the deceased was travelling by any train from Jodhpur. On the other hand, it was stated that no ticket was found from him. The dead body of the victim was lying under a bridge at KM no.20/7-8. If any ticket was found from the possession of the deceased, then it could have been ascertained from which station he/she was travelling by a train. In the case on hand, no ticket was found from the deceased and in spite of that fact, the DRM's report mentioned that the deceased was travelling by a train specifically from Jodhpur. It clearly appears that the DRM has filed a false, vague and frivolous report before this Tribunal mentioning that the deceased was travelling by a train from Jodhpur when it was not in consonance with the evidence on record. It is evident from records on file that there was no proper application of mind on the part of the DRM while accepting a



report without any basis. By coming to a conclusion that the victim was travelling on the train without any basis & purely on presumption & assumption, DRM Katihar intended to cause a huge financial loss to the tune of Rs 8 lakhs to the railways. It has become obvious that the DRM and his team were hand in glove with the claimants or with the middlemen and so bent upon causing a huge final loss to the railways. We feel that it should be investigated as to how DRM Katihar has come to the conclusion that the victim was travelling when no ticket has been recovered from the deceased & there is absolutely no eyewitness to prove any travel of the deceased. Therefore it is crystal clear that DRM Katihar is hell bent on getting Rs 8.00 lakhs of govt money given away without any verifiable evidence. A copy of this judgement is to be marked to Adviser Vigilance ,Railway Board & Central Vigilance Commission ,New Delhi for conducting investigation against DRM Katihar for plotting to



cause loss to government exchequer on cooked up grounds.

6.4 The claim application has been filed by the applicant. The burden of proof is on the applicant to prove her case. **When a person is bound to prove the existence of any fact, the burden of proof clearly lies on that person.** It was the duty of the applicant to have led and marshalled sufficient convincing evidence. In this case, the applicant miserably failed to establish her contention about the accidental fall of her husband from a train carrying passengers. The evidence on record, both oral and documentary does not corroborate the alleged incident of the victim's fall from the train. Hence, it is held that the applicant failed to prove that the deceased fell down from a running train & that he was a bona fide passenger, to be covered under the purview of Section 123(c)(2) of the Railways Act.

This issue is, therefore, decided against the applicants.

Issue No. 1

7. As per the claim applicant the ticket of the deceased was lost after the incident. In the written statement filed by NFR, it was pleaded that no railway ticket was found from the possession of the deceased during the inquest and so the deceased was not a bona fide passenger. DRM's report also contended that no ticket was found from the deceased. As per **Section 2(29) of the Railways Act**, the "passenger" means 'a person travelling with a valid pass or ticket'.

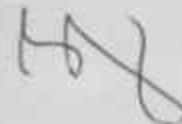
Whatever articles are found from the possession of the deceased are recorded in the Inquest report. In the case on hand, there is nothing mentioned in the Inquest report about recovery of any ticket from the

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deceased. During the course of the argument Ld. Counsel for the applicant stated that only an Aadhar card was found from the victim and that was handed over to the victim's family members by GRP/Katihar. On perusal of the record it is seen that there is a Zimnana filed by the applicant, which revealed that Aadhar card bearing no.5551 2411 1919 found from the deceased was handed over to the deceased's daughters by GRP/Katihar. It is not believable that a valuable document like an Aadhar card was found from the victim's possession when selectively the ticket was lost after the alleged incident. As per affidavit of evidence the applicant, on 06.02.2020 the deceased after purchasing a ticket boarded a train from Jodhpur and came to Katihar on 08.02.2020. From 08.02.2020 he boarded another train for Jalpaiguri from Katihar. In the claim application, the applicant could not specifically mention which ticket was lost i.e. Jodhpur to Katihar or Katihar to New Jalpaiguri.

We do not agree with the contention of the Ld. Counsel for the applicant on the point that the onus is always on the Railways to prove that the deceased was not a bona fide passenger, because to our mind there must be some reason to believe that the deceased was travelling by the train. To our mind there can be no sweeping presumption that in all cases the ticket of every deceased is necessarily lost. We cannot agree with the arguments of the Counsel that the onus is always on the Railways to prove that the ticket has been purchased in every case. It is seen that nowhere in the case, Rina Devi vs. *Union of India* Hon'ble Supreme Court holds that every person who falls from a train and dies as a result of accidental fall from the train must be presumed to be a bona fide passenger travelling with the ticket. There is no such blanket liberty given to the applicants by any judgement of the Hon'ble Supreme Court. As per the facts and circumstances of the case, it is not proved by the applicants that the deceased was a bona fide passenger.

Hence, this issue is decided against the applicants.



Issue No.3

8. In view of decision on issue nos.1 and 2, this issue is not required to be adjudicated.

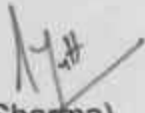
Issue No.4

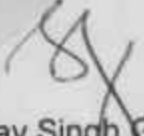
9.0 In the light of the decision on the foregoing issues, the applicants are not entitled to get any relief. Hence,

ORDERED

That the claim application being devoid of merit is hereby dismissed on contest & disposed of accordingly without costs.

Additional Registrar of this Bench is directed to send a copy of this order to the Central Vigilance Commissioner/New Delhi and Advisor(Vigilance), Railway Board, New Delhi along with the complete DRM's report including its all annexures.


(S. D. Sharma)
Member(Judicial)


(Sanjay Singh Gehlot)
Vice-Chairman

