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BEFORE THE RAILWAY CLAIMS TRIBUNAL

BHUBANESWAR BENCH

Case No. OA (IIU)/PNBE/22/2021

Coram: Sri R.S.Mitra, Hon'ble Member (Technical), RCT/Bhubaneswar

Date of untoward incident: 13/03/2018

Date of claim registration at RCT/Patna: 12/09/2019

Date of Judgment: 26/05/2025

Claimed Amount: Rs.8,00,000/-

In the matter of

1. **Bimlesh Prasad aged about 48 years (Father)** Applicants
2. **Gayatri Devi aged about 47 years (Mother)**

Both the Applicants are resident of village : Bithara,

PS: Kurtha, Distt :Arawal

State : Bihar, PIN : 804 401

At Present : Chandmari Road Azad Path Gali No. 3,

Post : Lohiya Nagar, PS: Kankarbagh,

Patna: 800 020

-Versus-

Union of India represented through

Respondent

It's General Manager, East Central Railway,

Hajipur , Bihar

Appearance:

For the Applicants : None

For the Respondent : Sri Alok Kumar, Ld. Addl. Standing Counsel

J U D G E M E N T

1. It is pertinent to mention here that this present claim application had been initially filed / registered on 12/09/2019 before Railway Claim Tribunal, Patna Bench by the Applicants (parents of the deceased) under section 16 of the Railway Claims Tribunal Act, 1987, claiming compensation of Rs. 8,00,000/- (Rupees Eight Lakhs) along with 12% interest from the date of incident till realization from the Railway Administration on account of death of their son namely Santosh Kumar aged about 25 years, allegedly in an untoward incident involving fall from a running train. The Hon'ble Chairman, Railway Claims Tribunal, Principal Bench, Delhi, vide its order dated 19/03/2025, transferred the



case to Railway Claims Tribunal, Bhubaneswar for disposal the case though argument on hybrid mode and Bhubaneswar Bench to act as a circuit Bench of Patna Bench. Accordingly, the case receipt / registered at this bench on 27/03/2025 and heard argument of Ld. Counsel for the Respondent through virtual mode on 23/05/2025, (the Ld. Counsel for the Applicants was absent) and reserved for order.

2. **Brief facts of the case:** As per claim original claim petition, on the date of incident i.e. on 13/03/2018, the deceased Santosh Kumar was by travelling by 1st P.G. Passenger train from Jehanabad to Bela railway station. The train was heavily crowded and the deceased anyhow got into the train and was compelled to stand near the gate inside the bogie but due to jostling of other passengers, while getting down at Bela railway station, the deceased, became imbalanced and accidentally fell down from the said running train, sustained grievous injuries. With the help of local people, the injured (deceased) was brought to Govt. hospital, then taken to Sadar hospital, Jehanabad by the family members and thereafter, owing to serious condition, referred to Emergency ward where in course of treatment, doctor declared him dead on the same day. It is pleaded in the claim petition that the deceased, on the date of incident, he was travelling vide ticket bearing No.URB-74736599 valid from Jehanabad to Chakand railway station and the said ticket was found in possession with the deceased during his treatment at hospital. On the basis of Fard-Bayan, an UD case No.14/2018 dated 27/04/2018 was registered with GRP, Jehanabad, railway police investigation the matter and found the factum of occurrence is true and deceased died out of aforesaid untoward incident.

3. **Respondent's Reply:** On receipt of notice, the Respondent Railway filed its written statement wherein the contents made in the claim petition is denied and put to strict proof of the same. It is submitted that it is a clear case of trespass/run over as such no journey ticket was recovered in possession with the deceased during inquest and no journey ticket has been mentioned in the final report as well. It is further alleged that no station memo was issued regarding deceased sustained injury out of accidental fall down from the running train. As per statutory DRM/Danapur's investigation report, the deceased died out of his own negligence and the the incident of death



occurred due to dashing by any unknown train while trespassing railway track. With these facts and circumstances, the Respondent Railway administration prayed for dismissal of the claim petition.

4. **Issues:** From the pleadings of the parties, this Tribunal framed the following issues for determination 25/06/2021: -

- i) Whether the deceased was a bona fide passenger of unknown train?
- ii) Whether the death of deceased was covered under section 123 (c) (2) of Railways Act 1989?
- iii) Whether the applicants/ dependents of the deceased?
- iv) Whether the Applicants/ dependent entitled to receive compensation, if yes, to what extent?

5. **Applicant's Evidence:** To substantiate their claim, the applicants have filed the certified copy of 2nd class ticket, letter of Supdt. of Police, Rail-cum-Public Information Officer, Patna under memo no.127 dated 31/07/2019, Far-Bayan of Bimlesh Prasad, father of the deceased, FIR dated 27/04/2018, inquest Report, dead body challan dated 14/03/2018, P.M Report dated 14/03/2018, Final Report dated 20/04/2018, Death Certificate, Dependency /Family Member Certificate, aadhar Card, Bank details and other documents in connection with the alleged incident. In this connection, Bimlesh Prasad, father of the deceased has filed affidavit in evidence and examined himself before the bench as AW 1. He was cross examined by the Ld. Counsel for the Applicants before the bench on 10/05/2023.

6. **Respondent Evidence:** The Respondent Railway on the other hand filed written statement and DRM/Danapur's statutory investigation Report, along with enquiry report of SI/RPF Post/Jahenabad, Track Fit Certificate, statement of family members, Post mortem examination report, Jama Taashi Report, copy of FIR & station dairy, statement of SS and other documents in connection with the alleged incident. The Respondent railway did not produce any witness to examine before the bench.

7. **FINDINGS:** I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on



behalf of the Applicants as well as Respondent and heard the arguments of Ld. Counsel for the Respondent. My findings on the aforesaid issues are as under: -

7.1. **Issue Nos. 1, 2 & 4:** These three issues being inter-connected are taken up together for the sake of convenience.

7.2 The AW 1, father of the deceased, in the affidavit in evidence as well as during examination in chief has stated before the bench that his deceased son during course of journey from Jehanabad to Bela railway station, accidental fell down at Bela railway station, sustained injury and died in the hospital. In this connection, the Applicants have relied upon the copy of inquest report, Post Mortem Examination Report, final report and submitted that deceased died out of accidental fall from running train. The Ld. counsel for the Applicants was absent on the date of argument and in the interest of justice, the reserved for order in terms of Rule 18 of the Railway Claims Tribunal (Procedure)Rule 1989.

7.3. Whereas the stand of the Respondent is that the deceased is not a bona fide passenger and during Jama Talashi of inquest, no journey ticket has been recovered. It is alleged that there is no direct witness to the alleged incident and the incident of death is not within the relevant Section 123 (c) (2) of the Railway Act 1989. It is further alleged that the deceased at the time of incident, he was not travelling in any train and the cause of his death has occurred is due to his own negligence that occurred due to dashing by any unknown train while trespassing railway track. The Ld. Counsel for the Respondent during arguments submitted that the burden of proof that lies on the Applicants to establish that deceased on the date of incident purchased ticket, travel in the train and fall down from it. He submitted that AW 1 father of the deceased is not a direct witness to the alleged incident and statement made before the bench is hearsay evidence, therefore, should not be relied upon. He further submitted that the deceased, on the date of incident, he was travelling by 1st P.G passenger train, but during enquiry, the E.O has come to know that no such train was running in that section. He added that the death of the deceased is self-inflicted and comes under proviso clauses (a) to (d) to Section 124 A of the Railways Act, 1989, for which the Respondent railway is not


M (T) / MDS

responsible and not liable to pay compensation. He accordingly sought for dismissal of the claim petition.

7.4. The facts remain that an UD case No.14/2018 has been registered at GRP, Jehanabad based on the report of Applicant No.1, father of the deceased to the effect that his deceased son, fell down from train at Bela railway station, sustained injury and died in hospital. It is a fact that during inquest, no travelling authority/ journey ticket was recovered in possession with the deceased. AW 1, father of the deceased is not a direct witness to the alleged incident and his statement before the bench is based on hearsay evidence. It is a fact that the Applicants in the original claim petition alleged that their deceased son during course of journey by 1st P.G passenger train, accidentally fell down at Bela railway station, sustained injury and died in course of treatment. In this connection, the bench vide its order dated 23/04/2025 has obtained the details of 1st PG passenger train from Station Manager, Jehanabad railway station has found that on the alleged date of occurrence, no such train by name of 1st Passenger ran in between Jehanabad to Bela station. It is a fact that the journey ticket in this case is valid from Jehanabad to Chakand railway station which is not corroborated with the pleading made in the claim petition to the effect that deceased was travelling from Jehanabad to Bela railway station on the strength of that ticket only.

7.5 The burden squarely lies on the Applicants to establish that the deceased in fact suffered from an accidental fall from the train before they can seek compensation U/s 124-A of the Railways Act, 1989. The expression "untoward incident" is defined U/s 123(c) of the Act which includes a case of accidental fall from the train. It is only on proof of the fact that the death was due to an untoward incident within the meaning of Section 123(c) that the dependents of the deceased would be entitled for compensation U/s 124-A of the Act. In this instant case, looking at the name and train number, it is found that no such train, was running in between the section, therefore, the possible fall down of the deceased from the alleged 1st P.G. Passenger train at Bela railway station, do not arise. It is a fact that AW 1, father of the deceased is not a direct witness to the alleged incident and no journey ticket was recovered in possession with the deceased during inquest. Thus in



view of above, the stand taken by the Respondent in the DRM/Danapur's investigation report that deceased died out of own negligence that occurred due to dashing by any unknown train while trespassing railway track cannot be ruled out completely.

7. 6 Thus in view of foregoing discussion, it is concluded that the Applicants have failed to discharge the burden lying upon them to establish that the deceased was a bona fide passegner and the incident of death occurred due to accidental fall from running train as defined under section 123 (c) (2) of the Railways Act 1989 . Therefore, the Applicants are not entitled to get compensation under section 124 A of the Railways Act 1989. These issues are therefore answered against the Applicants.

8. **Issue No. 3:** In view of finding on the issue no. 1, 2 & 4, which goes against the Applicants, Issue Nos. 4 & 5 need not be discussed. Hence Ordered.

9. **ORDER:** The OA is dismissed on merits. There shall be no order as to costs. Pronounced in the open Tribunal to-day on 26/05/2025.


(Sh.R.S.Mitra)

Member (Technical)/RCT/BBS

Date: 26/05/2025

DA No. PNBE/22/2021.