

Before Railway Claims Tribunal, Ahmedabad Bench {as Circuit Bench of Railway Claims Tribunal, Patna Bench (parent bench of this case)} through virtual mode hearing.

Coram: Shri Vinay Goel, Member (Judicial)

CASE No.OA (IIu)/PNBE/226/2019.

Date of Institution: 05.02.2019.

Date of Decision: 02.01.2025.

(1) Rinku Devi W/o Late Ramanuj Prasad, Aged 33 years.

(Wife of the deceased)

(2) Komal Kumari, Aged 12 years.

(Minor daughter of the deceased passenger through her natural guardian mother who is Applicant No.1)

(3) Sujit Kumar, Aged 10 years.

(Minor son of the deceased passenger through his natural guardian mother who is Applicant No.1)

(4) Kajal Kumari, Aged 07 years.

(Minor daughter of the deceased passenger through her natural guardian mother who is Applicant No.1)

(5) Payal Kumari, Aged 05 years.

(Minor daughter of the deceased passenger through her natural guardian mother who is Applicant No.1)

All Resident of: Vill./Moh.: Kaotiya Vigaha, P.S.: Hilsa, District: Nalanda, State: Bihar, Pincode – 801 302.

.....APPLICANTS

VERSUS

Union of India,

Through the General Manager,
East Central Railway,
Hajipur.

.....RESPONDENT

Rs. 8,00,000-00 CLAIM

Mr. B.N.Singh, Ld. Counsel for Applicants.

Mr. Radhika Raman, Ld. Counsel for the Respondent.

JUDGEMENT

This OA has been filed by five applicants i.e. wife and four minor children of the deceased under section 16 of the Railway Claim Tribunal Act, 1987 read with section 124-A, 125 & 123 (c) (2) of the Railways Act, 1989 for compensation from Respondent

Railway on account of alleged death of Sh. Ramanuj Prasad S/o Late Rajendra Prasad aged 35 years (hereinafter referred to as 'deceased') in an alleged untoward incident during alleged train journey, on the ground that they are the dependents of the deceased.

In fact, this OA has been filed before RCT/Patna Bench thereafter upon directions of Hon'ble Chairman/Principal Bench-Delhi vide order dated 27.11.2024, this case has been referred to RCT/Ahmedabad for disposal within time stipulated in the said order through hybrid mode. The original file was received on 09.12.2024 by this Tribunal. Thereafter the ld. counsels for both the parties appeared through virtual mode to argue their case.

1. Basic details relating to accident as contained and alleged in the Application:-

(a) Date of accident: 10.05.2018.

(b) Person deceased: Sh. Ramanuj Prasad S/o Late Rajendra Prasad, aged 35 years.

(c) Relationship of the applicants with the deceased: Applicant No. 1 is the wife of deceased, Applicant No. 2 is the minor daughter, Applicant No.3 is the minor son and Applicant No.4 and Applicant No.5 are the minor daughters of the deceased.

(d) Train involved and transit details: The deceased was travelling by train no. 18696 DN named Hatia – Islampur Express from Patna Railway Station to Hilsa Railway Station on a valid monthly pass (M.S.T.) bearing No. URC-02074830.

(e) Untoward incident narrated: On 10.05.2018 deceased was travelling by train from no. 18696 DN named Hatia – Islampur Express from Patna Railway Station to Hilsa Railway Station on a valid monthly pass (M.S.T.) bearing No.URC- 02074830. There was rush in the general compartment and while the train was running between Daniyawan and Hilsa station deceased reached near the gate of the compartment in order to be ready to get down at Hilsa Railway Station. Other Hilsa Station bound passengers also started to reach near the gate of the compartment in order to be ready to get down at Hilsa station and it caused heavy rush and intense jostling amongst the passengers. Due to heavy rush and intense jostling amongst the passengers near the gate of the compartment the deceased accidentally fell down from the said running train at south of Chiksaura Railway Gumti. Due to accidental fall the deceased sustained serious injuries and died on the spot. Valid monthly pass (M.S.T.) bearing No. URC- 02074830 for up and down travel between Hilsa Railway Station and Patna Railway Station with validity from 08.05.2018 to 07.06.2018 was recovered during investigation.

(f) Jurisdiction: Place of incident was between Daniyawan and Hilsa Railway Stations, Patna Bench of the Tribunal has territorial jurisdiction.

2. Salient features of reply:

a) Averments in reply: In the written statement the respondent has denied the incident as "UNTOWARD INCIDENT". The deceased died due to crossing railway track. There is no eyewitness of whole incident. The incident might have happened due to carelessness and negligence of deceased which amounts to be self -inflicted injury. So the applicants are not entitled to alleged amount of compensation.



b) Crux of DRM Report:

मृतक किसी ट्रेन से यात्रा नहीं कर रहा था और न ही उसके पास कोई रेल यात्रा टिकट पाया गया। घटित घटना का कोई प्रत्यक्षदर्शी गवाह नहीं हैं। मृतक अनाधिकृत रूप से घटनास्थल पर ट्रैक पर करने के क्रम में किसी चलती गाड़ी के चपेट में आने से हुई हैं। अतः उपरोक्त परिस्थिति में रेल प्रशासन की कोई जिम्मेवारी नहीं बनती हैं।

3. From the pleadings, the following issues were framed on 30.06.2021.

1. *Whether the deceased was a bonafide passenger of the train No.18696?*
2. *Whether the death of the deceased is covered under Section 123 (c) (2) of the Railways Act,1989?*
3. *Whether the applicants /dependents are dependents of the deceased?*
4. *Whether the applicants/dependents are entitled to receive compensation, if yes, to what extent?*

4. Applicant's Evidence: Applicant No.1 appeared on 20.09.2023 and has filed her affidavit as AW/1 on the lines of pleadings set up in O.A. and had been cross-examined by Ld. Counsel for the Respondent.

5. Respondent Evidence: Respondent has relied upon its DRM Report annexed and documents next thereof, and has opted not to adduce any oral evidence.

6. Documents filed by the Parties: Both the parties have opted not to mark exhibits on so produced/placed documents. Reason is not known to this Tribunal why the Applicants' side has opted not to exhibit their documents but it is quite astonishing that at no point of time the Respondent ever made any objection about legality of process adopted by the other side. Even the Respondent tried to follow foot prints of Applicants. Although provision of Evidence Act and Civil Procedure Code are not strictly applicable on the summary proceedings under Railway Claims Tribunal Act, but proper marking of exhibits would indeed helpful to both the parties as well as this Tribunal, to evaluate the true effects and evidentiary value of relevant documents. This Tribunal expects that both the ends would understand the concern of this Tribunal in right prospect. The non-exhibition of document is a procedural irregularity as such is being ignored, keeping in view object of welfare legislation and summary procedure proceedings under Railway Claims Tribunal Act, 1987 and Chapter XIII of the Railways Act, 1989.

- a. The Applicants filed certified copy of: Monthy Pass (MST) as Annexure-1 Memo as Annx-2, Application given by Rinku Devi to GRP- Hilsa as Annx-3, Inquest Report as Annx-4, F.I.R as Annx-5, Post Mortem Report as Annx-6, Final report as Annx-7, Death Certificate of deceased as Annx-8, Adhar card of the deceased as Annx-9, Adhar Cards of Applicants as Annx-10, Certificate of list of family as Annx-11, Bank details of Applicant No.1 as Annx-12.

- b. The Respondent filed the Statutory DRM report along with the Investigation report and documents annexed thereto.

7. At the time of arguments, the Ld. Counsels for parties argued as under:

Mr. Singh submitted; that the deceased was travelling from Patna To Hilsa station on a valid MST; that during his journey he accidentally fell down from the running train; that MST has been produced on record. So, the Applicants being dependents are entitled to the compensation.

In reply Mr. Raman submitted; that it was a case of run over as Station Master issued a Memo that a person has been cut and died at LC Gate no.21C; that at the time of Inquest no MST or ticket had been recovered and alleged MST was handed over to GRP after five days of incident; that if the deceased was travelling on said MST he would have carried his MST and same would have been recovered during Inquest; that the deceased was resident nearby the place of incident; that there was no travel and while crossing track deceased met with an accident.

In rebuttal Mr. Singh referred a statement of Loco Pilot annexed with DRM report that no incident ever happened with this train.

FINDINGS

8. This Tribunal has carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of applicants and heard the arguments advanced on behalf of rival parties by their counsels. Findings of this Tribunal on the aforesaid issues are as under:

Issue No. 1 and 2

9. Both the issues have been taken up together as they are interconnected and to avoid repetition.

Admittedly in this case monthly pass/ticket was produced after five days of incident to the GRP. On verification of this monthly pass it was found to be genuine so we can say deceased was a bonafide passenger. There is no eyewitness to the incident so we have to depend on the circumstantial evidences.

To arrive at the right conclusion I would like to refer the extract of following documents.

Memo: It recites that one person was run over by the train no. 18696 DN named Hatia – Islampur Express. This information was given to the Station Superintendent by unknown passengers.

Statement of Loco-Pilot of train No.18696: During the course of my duty at Hilsa station or near its surrounding there was no information of any person being run over by my train from any rail employee or any passenger.

Inquest Panchnama: It recites person died due to fallen from the train and dragged by the train.



Panchnama of place of incident : It also recites person died due to fallen from the train and dragged by the train.

10. So it can be concluded from the above documents that if it was the case of run over it would have come in the notice of the Loco Pilot of said train. Station Superintendent Hilsa got this information from unknown passengers and not from any reliable source. So it can be safely concluded that deceased accidentally fell down from the running train and died on the spot.

11. Taking Holistic view of all documents on record support the case of accidental fall, material available, attending circumstances and also applying principle of Welfare Legislation it can be safely said the deceased died due to accidental fall from running train during the course of travel and said accident fall would come within the ambit of Untoward Incident as defined under Railway Act. Further Respondent has failed to prove on record any element of criminal negligence which may bring this case within the scope of Proviso (b) section 124(A) of Railway Act.

12. It would be proper and appropriate to say that said accidental fall would come within the ambit of Untoward Incident. The deceased can be treated as bonafide passenger. Thus issue No.1 and No.2 are decided in favour of the Applicants and against Respondent.

Issue No. 3 & 4

13. The claim has been filed by wife, three minor daughters and minor son of the deceased. In the support of dependency applicants have filed documents as under:

- (i) Adhar Card of deceased as Annexure-9
- (ii) Adhar Cards of Applicants as Annexure-10 and
- (iii) Certificate of List of family as Annexure-11.

There is no dispute about the relationship of the Applicants with the deceased and Respondent side has failed to counter the documentary evidence produced by the Applicants. The Applicants have every locus to file this petition under Section 16 of RCT Act, 1987 read with Section 124A and 125 of Railways Act, 1989.

14. Thus, the Applicants in this case will be entitled to get Rs 8,00,000/- as compensation from the Respondent Railway Administration on account of death of Sh Ramanuj Prasad S/o Late Rajendra Prasad as prescribed under part-I of the Schedule appended to Rule 3 (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22.12.2016 w.e.f. 01.01.2017.

Both these issues are decided accordingly.

15. On the facts and in the circumstances of this case, I find it just and proper to award compensation as mentioned below:

ORDER

16. The claim application is allowed. The Respondent shall pay to the Applicants a sum of Rs.8,00,000/- (Rs. Eight Lakh only) as compensation as per apportionment given below within 30 days from the date of this order. The awarded sum will carry simple interest @ 9% per annum from the date of the incident i.e. 10.05.2018 till the date of this order. If the Respondent Railway fails to pay the amount within above

stipulated time (30days), the awarded sum will carry simple interest @ 9% per annum from the date of the incident till the date of realization.

17. The Respondent Railway Administration is directed to deposit the whole amount along with interest with the Registry of RCT/Ahmedabad within a period of 30 days from the date of this order. Further the Respondent is directed to place the proof of awarded amount on record with up to date interest along with the calculation sheet.

18. The Registry is directed to disburse the total compensation amount as per detailed apportion as given below:

Name of Applicants	Awarded Amount	Amount to be given through ECS/NEFT	Amount to be invested under Annuity Scheme
Applicant No.1 Rinku Devi W/o Late Ramanuj Prasad	3 Lakh + accrued proportionate interest.	Rs. 50000/- + accrued proportionate interest.	Balance amount of Rs. 2,50,000/- (Two Lakh fifty Thousand) only shall be kept in fixed deposit for three years.
Applicant No. 2. At the timing of filing of O.A. Minor Komal Kumari but new major.	1,25,000/- + accrued proportionate interest.	Rs. 15000/- + accrued proportionate interest.	Balance amount of Rs. 1,10,000/- (One Lakh Ten Thousand) only shall be kept in fixed deposit for two years.
Applicant No. 3. Minor Sujit Kumar	1,25,000/- + accrued proportionate interest.	NIL	Rupees One Lakh along with accrued interest shall be kept in fixed deposit till the minor becomes major or for three years whichever is later. The natural guardian i.e. applicant No.1 her mother will be at liberty to withdraw the quarterly interest.
Applicant No. 4. Minor Kajal Kumari	1,25,000/- + accrued proportionate interest	NIL	Rupees One Lakh along with accrued interest shall be kept in fixed deposit till the minor becomes major or for three years whichever is later. The natural guardian i.e. applicant No.1 her mother will be at liberty to withdraw the quarterly interest.



Applicant No. 5. Minor Payal Kumari	1,25,000/ - + accrued proporti onate interest	NIL	Rupees One Lakh along with accrued interest shall be kept in fixed deposit till the minor becomes major or for three years whichever is later. The natural guardian i.e. applicant No.1 her mother will be at liberty to withdraw the quarterly interest.
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Note*: Judicial notice can be taken about age of Applicant No.2, who was minor at the time of filing the O.A. but has become major during the pendency of the case.

19. The Applicant(s) is/are hereby directed to furnish the particulars of his/her/their savings bank account of a Nationalized *near to his/her/their permanent place of residence* along with a copy of Aadhar Card, PAN card, two photographs, specimen signature and pass book of the bank with necessary endorsement of the bank that no debit card/Cheque book has been issued, with the Registry of this Bench. The Applicant(s) is/are directed to produce the copy of the order passed by the Tribunal before the concerned bank whereupon the bank is directed to make an endorsement on the passbook.

20. The claimants are further directed to submit Form 15G or Form 15H (for senior citizen) to the Presenting Officer of the Railway (as applicable under sub-section (2) of section 19 of the Railway Claims Tribunal Act, 1987) within the 30 days from this order otherwise the Railway Administration deduct the applicable TDS as per the provisions of the income tax act.

21. The Registry is directed to defer the disbursement of award amount till the passbook of saving bank account of the claimant(s) in a bank near the place of his/her/their permanent residence is not produced along with necessary endorsement.

22. The Registry is further directed to ensure that the statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished by the Bank to the claimant(s).

23. Further, I deem it proper to direct the concerned bank that:

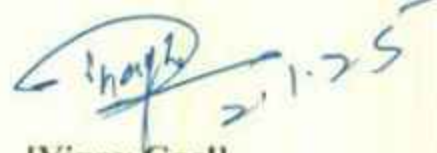
- The Bank shall not permit any joint name to be added in the savings bank account or fixed deposit amount of the claimant(s) i.e. savings bank account of the claimant(s) shall be an individual bank account and not joint account.
- The bank shall not issue any Cheque book and debit card to the claimant(s). However, in case the debit card or Cheque has already been issued, bank shall cancel the same before the disbursement of the awarded amount.
- No loan, advance, withdrawal or premature discharge is allowed on fixed deposit without the permission of the court.
- The bank shall make an endorsement on the pass book of the claimant(s) to the effect that no Cheque book and/or debit card have been issued.

- (e) The statement containing FDR number/FDR amount/date of maturity and maturity amount shall be furnished to the claimant(s).
- (f) The Bank is directed not to permit any debit to Saving Bank of Applicant(s) from any electronic channel or e-payment platform and to permit the claimant(s) to withdraw money from his/her/their savings Bank Account by means of a withdrawal form only.

24. The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number FDR amount, date of maturity shall be furnished by bank to the claimant(s).

25. The Registry is directed to send a free certified copy of this judgment directly to the Respondent and the Applicant(s) at his/her/their postal address mentioned in the claim application by Register A.D. in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989. In terms of the above, the present claim application is disposed of. ADR/RCT-Ahmedabad is directed to send the original file along with the judgment in sealed cover to RCT-Patna Bench.

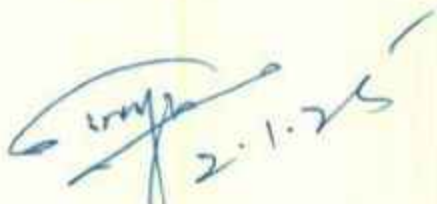
26. In terms of the above, the present claim application is disposed of. Let this case file be consigned to the Records Room. No order as to costs.


[Vinay Goel]
Member (Judicial)

Judgment pronounced and signed in open court today i.e. on 02.01.2025.

Place Ahmedabad

Date: 02.01.2025.


[Vinay Goel]
Member (Judicial)