

BEFORE THE RAILWAY CLAIMS TRIBUNAL

(PATNA BENCH)

(On Circuit Bench at Bengaluru through Hybrid Mode)

CLAIM APPLICATION No.OA (II U)/PNBE/0231/2022

JUDGMENT PRONOUNCED ON FRIDAY THE DATED 29<sup>TH</sup> AUGUST, 2025

CORAM:

1. Mrs. IVY CHARLES D'CRUZ,  
Hon'ble Member (Judicial),  
RCT, Bengaluru Bench.
2. Mr. RAVI NANDKEOLYAR,  
Hon'ble Member (Technical),  
RCT, Bengaluru Bench

BETWEEN

1. Kavita Devi, Wife of late Sudhir Kumar
2. Karik Kumar, Son of late Sudhir Kumar,
3. Ayush Kumar, Son of late Sudhir Kumar.

Both applicant Nos. 2 and 3 are minor and under the guardianship of Kavita Devi.

All resident of Village: Kushar Khas, P.O. Sherpur, Chharwara, P.S. Mahua, District: Vaishali, PIN Code-844 126,

Presently residing at Jamunapur Panchit Baitha, P.O.: Madhav Mills, P.S: Malsalmi, District:Patna, PIN Code:800 008 (Bihar).

:: Applicants

AND

1. Union of India,  
through the General Manager,  
East Central Railway,  
Hajipur.
2. Kabutari Devi, Wife of Ram Bahadur Sahani,  
Resident of Village: Jamunapur Panchit Baitha,  
P.O.: Madhav Mills, P.S: Malsalmi, District:Patna,  
PIN Code:800 008 (Bihar).

:: Respondents

Amount of compensation claimed Rs.8,00,000/- along with interest @ 12% p.a.,  
from the date of incident till realization

Ld., Counsel Present:

For the Applicants :: Shri Praveen Kumar Gupta.

For the Respondent:: Ms. Priyanka Raj Lakshmi.

} Through Hybrid Mode



## J U D G M E N T

IVY CHARLES D'CRUZ,  
MEMBER (JUDICIAL).

1. This is an application filed under Section 16 of Railway Claims Tribunal Act, 1987 read with Sections 123(c)(2) and 124-A of the Railways Act, 1989 by the wife of the deceased along with her two minor sons and widowed mother of the deceased as dependents claiming compensation on account of the death of her husband, Sudhir Kumar S/o. late Ram Bahadur Sahani (hereinafter called and referred to as 'deceased' for the sake of brevity), who alleged to have died in a Railway Untoward Incident of accidental falling from a train.

2. It was pleaded in the claim application that on 21.12.2019, the deceased (Sudhir Kumar) as a bonafide passenger having second class travelling ticket was travelling from Bakhtiyarpur to Patna Saheb Station by Train No. 63221. During the course of journey, when the said train was in operation, the deceased accidentally fell down from the train near Patna Saheb Railway Station and died instantaneously on the spot. After getting the information about the incident, the villagers and relatives reached at the place of occurrence and identified the deceased as Sudhir Kumar. They also received the dead body of the deceased after post-mortem examination for cremation.

3. 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 eyewitnesses. 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.

4. Based on pleadings raised; the issues were framed vide order dated 22.09.2023, to the following effect:

1. Whether the deceased was a bonafide passenger?
2. Whether the death of the deceased is covered under the ambit of Section 123© (2) of Railways Act, 1989?
3. Whether applicant/dependents are dependents of the deceased?
4. Whether the applicant/dependents are entitled to receive compensation, if yes, to what extent?

5. The applicant No.1, Smt. Kavita Devi W/o. late Sudhir Kumar, Wife of the deceased filed her affidavit of evidence and she was cross-examined by Ld. Counsel for the respondent as AW-1.

6. Respondent Railway did not led any oral evidence, however, they have produced Statutory DRM's Investigation Report and its annexures, which is taken on record and marked as Exhibit R-1 by consent. Service permitted. The respondent railway filed a report of DRM/Katihar and its annexures.

7. 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.1 and ISSUE No.2**

8. Both these two issues are inter-connected and inter-dependent and hence being taken up together for discussion. The facts giving rise to filing of present case are that the deceased was a resident of Malsalami of Patna District and Mason by profession. According to the applicants that on 21.12.2019, the deceased (Sudhir Kumar) as a bonafide passenger having second class travelling ticket was travelling from Bakhtiyarpur to Patna Saheb Station by Train No. 63221. During the course of journey, when the said train was in operation, the deceased accidentally fell down from the train near Patna Saheb Railway Station and died instantaneously on the spot. After getting the information about the incident, the villagers and relatives reached at the place of occurrence and identified the deceased as Sudhir Kumar. They also received the dead body of the deceased after post-mortem examination for cremation.

9. In her affidavit of evidence, the applicant No.1 (AW-1) reiterated and narrated above the facts of the case. During her cross-examination, AW-1 deposed that deceased was her husband and working as a mason. On the day of incident, he was coming from Bakhtiyarpur to Patna Saheb. She also deposed that the deceased didnot possess mobile phone, however, he called from someone else phone at 6.00 AM in the morning and said that he had not got any work and was returning back. The entire cross-examination of AW-1 in verbatim in vernacular language is reproduced here as under:-

"XX श्रीमती पी आर लक्ष्मी, प्रतिवादी अधिवक्ता द्वारा प्रति परीक्षण XX  
मृतक मेरे पति थे ।

21.12.2019 की घटना है ।

घटना के दिन मैं ससुराल में थी।

मेरे पति राजमिस्त्री के काम करते है घटना के दिन वे बख्तियारपुर से पटना साहिब  
आ रहे थे, पटना साहिब मेरा माइके है ।

वे सवारी गाड़ी से आ रहे थे ।

मेरे पति के पास मोबाइल नहीं था वे किसी के फोन से फोन किये थे कि काम नहीं  
मिला है मैं वापस आ रहा हूं, वे सुबह छः बजे फोन किये थे ।

घटना की सूचना मुझे पापाजी के द्वारा मिली थी। सूचना करीब 12-1 बजे दिन में मिली थी।

घटनास्थल पर मैं नहीं गयी थी।

मैं अपने पति को टिकट कटाते, गाड़ी पर चढ़ते या गाड़ी से गिरते हुए अपनी आंखों से नहीं देखी थी।

मेरी शादी 2011 में हुई थी, तारीख मुझे याद नहीं है।

घटना के बाद पुलिस में मेरा कोई बयान नहीं हुई थी, मैं किसी कागज पर हस्ताक्षर नहीं की थी।

मुझे दो बच्चे हैं: कार्तिक कुमार उम्र 12 वर्ष और आयुष कुमार उम्र 7 वर्ष अभी मैं माइके में रहती हूँ।

मेरी सास कबुतरी देवी जीवित है, ससुर जीवित नहीं है।

पति के मृत्यु के बाद से मैं माइके में रह रही हूँ।

मुझे पति से कोई अनबन नहीं चल रही थी।

यह कहना गलत है कि मैं मुआवजा के लिए झुठा गवाही देने के लिए आयी हूँ।

यह कहना गलत है कि मेरे पति रेल से यात्रा न कर रहे हो, यह कहना गलत है कि मेरे पति अवैध रूप से रेलवे ट्रैक पार कर रहे थे उसी में वे ट्रेन से कट गये हो।

(emphasis supplied)

10. It is stated by the learned counsel for applicants as per the police record the deceased had fallen down from the same train and died due to falling from the train, so the applicants are entitled for compensation, whereas the learned counsel for respondent has stated that the matter was investigated by the concerned authorities under Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, and it is found that the deceased was not having any journey ticket and there is no eye witness.

11. Heard arguments from both Ld., Counsel at length and perused the documentary evidence produced by both the parties. The applicants have filed the present OA claiming compensation of Rs.8,000,00/= along with 9% interest for the death of the deceased (Sudhir Kumar), who alleged to have died in a Railway Untoward Incident. In support of their case, applicants have produced 21 documents marked as Annexures A-1 to A-13. Smt. Kavita Devi W/o. late Sudhir Kumar, Wife of the deceased got herself examined as AW-I and she was cross-examined by respondent. Respondent Railway did not examine any oral witness, however, they have produced Statutory DRM's Report, which is marked as Exhibit R-1 by consent.

12. As per message issued by Station Master, Patna Saheb to Government Railway Police, Patna Saheb on 21.12.2019, which is marked as Annexure A-1: it is clear that GRP and RPF, Fatuha informed that a dead body of a male person aged around 30 years was found lying at RKM No.531/27 up line. On the basis of the said memo, UD case No.46/2019 dated 21.12.2019 was registered by Government Railway Police, Patna Saheb and the case was entrusted to Shri Uday Narayan

Tiwari, Sub-Inspector of Police for further investigation. On close scrutiny of jama tahlashi/Inquest Panchanamma, which was conducted on 21.12.2019 at 8.30 am in the morning, in which the identity of the deceased was recorded as 'unknown'. During inquest mahazar, other than the clothes worn by the deceased, nothing was recovered from the body of the person of the deceased. During the inquest proceedings, ticket was not recovered from the body of the person of the deceased. Thereafter, the corpse was sent to PMCH, Patna for autopsy. The post-mortem report is also placed and marked as Annexure A-5, wherein it is opined that "death was due to combined effect of head injuries and haemorrhage shock. Time since death was 24.00 hrs., from the time of Post-mortem Examination. Shri Uday Narayan Tiwari, Sub-Inspector after conducting a detailed enquiry in this case has submitted the Police Final Report.

13. 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 applicants, the deceased had no co-passenger and no eye-witness to the incident. The inquest report was signed by Shri Akash Kumar, Shri Shashanak Sharma, Shri Himanshu Kumar Mehta and Shri Vikash Kumar. On the basis of their opinion, the I.O. of the GRP/Patna Saheb mentioned that the deceased fell down from a train. The applicants have failed to produce and examine the inquest witnesses before the Court. Moreover, the Investigation Officer, GRP did not record the statements of the inquest witnesses required under Section 161 of Cr.PC. There is no direct evidence before the Court as to on what basis the Investigation Officer, 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.

14. The DRM, Danapur's report mentioned that **"the deceased person was neither a bonafide passenger nor travelled from any train. The deceased person had come to Patna Saheb Railway Station for some personal work and while crossing the railway track, carelessly and illegally, he was hit by an unknown moving train and died.** 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'.** In the case on hand, there is nothing mentioned in the Inquest report about recovery of any ticket from the deceased.

15. Hon'ble Apex court in the case of Union of Indian Versus Rina Devi 2018 SCC online SC 507 has concluded followings in regards to Burden of proof when body found on the Railway Tracks and Ticket was not recovered.

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17.4 We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that the injured or deceased was a bonafide passenger for which claim could be maintained. However, mere absence of ticket with such injured or deceased will not negate the claim that he was a bonafide 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 and 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.

16. We do not agree with the contention of the Ld. Counsel for the applicants 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**

17. The claim application has been filed by the applicants. The burden of proof is on the applicants to prove their 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 applicants to have led and marshalled sufficient convincing evidence to prove his case beyond reasonable doubt.

18. So far as the factum of Untoward Incident is concerned, in the instant case, law was set into motion based on the memo issued by Station Master, Patna Saheb to Government Railway Police, Patna Saheb on 21.12.2019, from which it is clear that GRP and RPF, Fatuha informed that a dead body of a male person aged around 30 years was found lying at RKM No.531/27 up line. On the basis of the said memo, UD case No.46/2019 dated 21.12.2019 was registered by Government Railway Police, Patna Saheb and the case was entrusted to Shri Uday Narayan Tiwari, Sub-Inspector of Police for further investigation. On the basis of this memo, Government Railway Police, Patna Saheb registered UD case No. 46/19 dated 21.12.2019. The inquest report of Government Railway Police, Patna Saheb mentioned that as per the statements of the witnesses, the deceased fell down from a running train and died thereof. The inquest report was signed by Shri Akash Kumar, Shri Shashanak Sharma and Himanshu Kumar Mehta and Vikash Kumar as witnesses. It is also not the case of the applicants that the witnesses of the inquest report were the co-passengers of the deceased and they witnessed the alleged incident. The applicant

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failed to produce the inquest witnesses before the Court to get them examined as to on what basis they opined to the Rail Police that the deceased fell down from a train. Hence, it is held that the opinion of the I.O. of the Rail Police in the inquest report that the deceased fell down from a train was based purely on assumptions and presumptions and as such, the inquest report cannot be given cognizance to. The cause of death of the deceased mentioned in the Final Police Report also appeared to be the reiteration of the Inquest report. Hence, the Final Police Report is also devoid of credibility.

19. The DRM's report contended that there was no eyewitness to the incident. The victim was run over by a train while crossing the railway track. The DRM's report could not be brushed aside without any reliable and cogent evidence on the part of the applicant's side. There was no rebuttal from the side of the applicant against the DRM's Report (copies of which were served to the applicant) by way of specific evidence. Even in her affidavit of evidence of the applicant, there was no denial of the DRM's report.

20. The **documentary evidence and oral evidence available on record do 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, & hence the incident was not falling within the purview of Section 123(c)(2) of the Railways Act.**

21. To claim compensation, two basic conditions to be satisfied by the claimants are that the deceased/victim was a bona fide passenger and there was an untoward incident as defined under Section 123© of Railways Act, 1989. Furthermore, no Cogent Evidence has been adduced or any material placed to suggest about the loss of ticket, as projected when the inquest report which was prepared at the earliest point of time has taken note of all aspects and condition of the body. For all reasons stated earlier, we hold that deceased was not a bona fide passenger and not entitled for compensation. Further, in our view, it was not an accidental fall within the meaning of Section 123(c) (2) of Railways Act, 1989 and therefore it will not come within the ambit of untoward incident. In such circumstances and in view of above facts, our finding on the first two issues are in the negative.

### ISSUE No.3

22. Once issues No.1 and issue No.2, which are the basic issues are decided in negative and against the applicant, question of consideration of grant of compensation would not arise, as it becomes only of academic interest, which is the basic and mandatory requirement under law, which has failed.

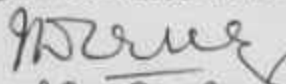


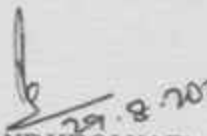
ISSUE No.4

23. In view of the above findings, the deceased, Sudhir Kumar S/o. late Ram Bahadur Sahani, cannot be termed as a bona fide passenger within the meaning of Section 123(C)(2) of the Railways Act. As such, the Applicants are not entitled to any relief at the hands of this Tribunal. Accordingly, the claim application deserves to be dismissed and is hereby dismissed. Hence ordered:

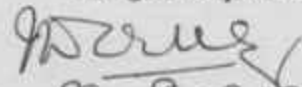
ORDER

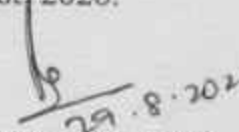
1. In the result the Claim petition is **Dismissed** on contest.
2. In the facts and circumstances of the case, there is no order as to costs.
3. Registry is directed to send a free certified copy of this Order to the parties in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989. File be consigned to Record Room after compliance.

  
29-8-2025  
(IVY CHARLES D'CRUZ)  
(MEMBER JUDICIAL)

  
29.8.2025  
(RAVI NANDKEOLYAR)  
(MEMBER TECHNICAL)

Judgment pronounced through Hybrid Mode on 29th August, 2025.

  
29-8-2025  
(IVY CHARLES D'CRUZ)  
(MEMBER JUDICIAL)

  
29.8.2025  
(RAVI NANDKEOLYAR)  
(MEMBER TECHNICAL)

**Place: Bengaluru,**

**Dated: 29<sup>th</sup> August, 2025.**