RAILWAY CLAIMS TRIBUNAL, PRINCIPAL BENCH, DELHI

Coram:

Mr. JUSTICE KANWALJIT SINGH AHLUWALIA, HON'BLE CHAIRMAN

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

Case No. : OA/II(U)/PNBE/258/2023

Date of filing : 29.12.2022

Reserved On : 18.08.2025

Pronounced On : 08.09.2025

1. Ranju Devi, (wife of the deceased)
   C/o Sudama Rikiyashan,

2. Satyam Kumar, (minor son of the deceased)
   S/o Sudama Rikiyashan,

Both, R/o- Pawara, Pawara, Gaya, Bihar-824205.

...Applicants

Versus

Union of India,

Represented through: General Manager,

East Central Railway, Hajipur

...Respondent

Roopa Srinivasan

Claim for Rs. 8,00,000/- (with interest)

Sh. Bashistha Prasad Sinha alongwith Sh. Rajeev Kumar, counsel for the applicants through virtual mode.
Sh. Ravindra Kumar Sharma, counsel for the respondent through virtual mode.

JUDGEMENT

Ms. Roopa Srinivasan, Hon'ble Member (Technical) :-

1. This is an Application filed by two applicants under Section 16 of the Railway Claims Tribunal Act, 1987, against the respondent Railway administration, seeking compensation for the death of Sudama Rikiyashan age 30 as the result of an alleged untoward incident. The two applicants who are- Ranju Devi, (wife of the deceased) and Satyam Kumar (minor son of the deceased), have sought compensation under Section 16 of the Railway Claims Tribunal Act, 1987.

Case of the applicants

2. On 13.03.2022, after purchasing a second class Super fast ticket for a journey from Chennai Station to Gaya Junction Sudama Rikiyashan boarded a train. Since, there was heavy rush in the General compartment Sudama Rikiyashan was standing near the gate of compartment due to the heavy rush and jostling among the passengers Sudama Rikiyashan fell down from the running train at Saidraja

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Station and died on the spot. The applicants have sought compensation under Section 16 of the Railway Claims Tribunal Act seeking compensation for the death of Sudama Rikiyashan, (hereinafter the "*deceased*") in an untoward incident as defined under Section 123 (c) (2) of the Railways Act, 1989.

3. The applicants submitted the following along with their claim application and during cross-examination (1) Memo of SM/ Saidraja Station dated 15.03.2022 (2) Copy of Station Diary (3) Copy of Panchayatnama dated 15.03.2022 (4) Copy of Post-Mortem report (5) Copy of Aadhaar Card of deceased and the applicants (6) Copy of savings bank account of the applicant No. 1 among others.

4. Applicant No. 1 tendered her affidavit towards examination in chief on oath as AW-1. She stated that she was not an eye-witness to the incident. AW-1 gave certain contradictory statements with regard to the place of work of the deceased which she mentions at some points as Chennai and at others as Pune. In the affidavit, AW-1 has stated that the deceased used to work in Chennai. She has stated that the deceased, who was her husband, was working in Chennai while her husband's brother used to work in Pune.

Case of the Respondents

5. The Respondent in their Written Statement have denied the claim of the applicant, stating that no railway ticket was recovered from the body of the

deceased or among his possessions In this regard Para No. 7 of the Written Statement filed by the respondent is reproduced below:-

> *"7. That from the DRM report the following facts came into the light, which is essential for proper adjudication of the case.*
>
> *(i) That as per inquest report prepared by the GRP/DDU, No Valid journey train Ticket or authority to travel recovered from the possession of the victim hence the victim was not a bonafide passenger of any passenger carrying train and the aforesaid incident occurs due to own negligence of the victim for which railway administration is not responsible and there were no fault by railway administration which attract 123 of the Railway act.*
>
> *(ii) There were no eye witness of the incident and same took place near KM – 648/17-19 of north of reversal line at Syed Raza Railway station, which shows that aforesaid incident occurs due to hit by running train for which the applicant is not entitled for any compensation."*
>
> ***(Reproduced in Verbatim)***

6. The DRM report which has in its annexure the Report of Ranjit Kumar Investigating Officer, which carries in its conclusion the following:-

> *"उपरोक्त मामले में दौराने जाँच पाया कि दिनांक 15.03.2022 को सैयदराजा स्टेशन के पूर्वी छोर पर किमी० संख्या-642/17-19 के बीच रिवर्सेबुल लाईन पर घटनास्थल के निरीक्षण के दौरान मृतक के पास से कोई यात्रा टिकट नहीं पाया गया, किंतु एक आधार कार्ड जिसमें नाम-सुदामा रिकियासन, उम्र-30वर्ष, पुत्र-राजेश रिकियासन, निवासी-ग्राम-पवरा, पोस्ट थाना-गुरूआ, जिला-गया (बिहार) प्राप्त हुआ, जिससे उक्त मृतक व्यक्ति की पहचान सुदामा रिकियासन पता उपरोक्त के रूप में किया गया। उक्त मृतक की मृत्यु किसी अज्ञात गाडी की चपेट में आने के कारण हो गयी।"*
>
> ***(Reproduced in verbatim)***

7. The Respondent along with their Written Statement have filed the following:-

(1) DRM report (2) Form- 1 & 2 (3) Copy of Station Diary of Saidraja Station

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(4) Statement of SSE/PWAY/Saidraja Station (5) Statement of Jayprakash Srivastava, Train Guard, 12802, Puroshotam Express (6) Nakal Roznamcha (7) Naksha Nazri (8) Statement of Ranju Devi among others.

8. A Division Bench of Patna Tribunal on 13.10.2023, formulated the following issues for adjudication:-

> *"1. क्या मृतक प्रश्नगत रेलगाड़ी का सद्भावी यात्री था?*
>
> *2. क्या मृतक की मृत्यु से सम्बन्धित घटना रेल अधिनियम 1989 की धारा 123 (C) (2) सपठित धारा 124-ए के अन्तर्गत परिभाषित अनपेक्षित घटना की परिधि में आती है।*
>
> *3. मृतक के आश्रित कौन-कौन हैं?*
>
> *4. आश्रितगण किस उपशम को प्राप्त करने के अधिकारी है?"*

Findings :-

9. Having gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of the parties and hearing the arguments advanced on behalf of the parties by the counsel, our findings are as under:-

Issues no. 1 & 2 : -

10. Issue No. 1 & 2 are taken together since they are interconnected.

11. The body of the deceased was found at KM 648/17-19, at the corner of the reversible line. In this regard extract of the Station Master's Memo is reproduced below:-

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"As a telephonic information through through on field SSE/PWAY/5YJ Sri Lal Bahadur at about 10:45 Hrs that a male person aged about 35-40 years is run over by any train but victims body is cut by both legs and about to alive at KM 648/17-19 on Rev/Line immediately informed 108, arrived at 11:25 Hrs and declare dead." ***(Reproduced in verbatim)***

12. It was brought out in a subsequent report in the Station diary of the GRP/Chandoli that both the legs of the deceased had been cut because of being run over by a train at around 10:45 hrs (as informed by SSE/PWAY/SYJ), but he was still alive. While 108 (Ambulance) was informed, by the time it arrived at 11:25 hrs the victim had died. Extract from the station diary of GRP Chandoli is reproduced below:-

"RPF/SYJ informed on Station Telephone from site that at 12:08 Hrs dead body is removed from Track and clear for train movement. Train movement from PF No 3 is stopped from 10:45 Hrs to 12:08 Hrs"

(Reproduced in verbatim)

13. The Post-Mortem report details the following injuries:-

1. Lacerated wound over head
2. Multiple abrasion and contusion
3. Left Lower limb amputated and crushed below knee joint
4. Right Lower limb and thigh crushed

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14. These injuries and the position of the body on the track lead us to the likely conclusion that the death of the deceased occurred due to a fall from a moving train. Also from the GRP report it appears that the deceased was alive at the time that the SSE/PWAY/Saidraja Station saw him at around 10:45 hr on 15.03.2022. Though, he had died by the time the ambulance arrived. In case the deceased had been run over by a train, it would be unlikely that he would still be alive after the incident (even immediately) also the condition of the body would have been far more mangled with body parts strewn around which is not the case in the current matter. From the above, we can conclude that the death of the deceased occurred because of falling down from a train.

15. No ticket was found on the body of the deceased or amongst his possessions. However, AW-1 who was the wife of the deceased has in her affidavit filed a statement that her husband had purchased a ticket and boarded the train. The question here is whether the journey commenced from Chennai (as is mentioned in the written affidavit) filed before the examination-in-chief on oath or Pune which she has mentioned once during her cross-examination?

16. The filing of the affidavit by the widow of the deceased as AW-1 has strength. Mentioning of "Pune" as the originating station might have been mentioned by AW-1 in error, on account of being overawed as a young illiterate widow by the

Reopen Premises

trappings of justice while being cross-examined in Court. From the above, we can conclude that the deceased was working in Chennai from where he was travelling to his home at Gaya to participate in the death related ceremonies of his elder brother. Since, an affidavit has been filed, the onus of proof regarding the bonafide status has shifted from the Applicant to the Respondent. Respondent has not made any suitable opposition to the same. In this regard Para 17.4 of Union of India Vs Rina Devi is reproduced below:-

"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."

17. On the touchstone of the observations made by the Hon'ble Supreme Court in Rina Devi (supra) and in view of the specific averments made in the affidavit of AW-1 that the deceased had purchased journey ticket for undertaking the journey in

question, we have no hesitation 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. These two issues are decided in favour of the applicants and against the respondent.

18. In view of the above, we conclude that the deceased, a bonafide passenger, died in an untoward incident of falling out of the train. This is covered under the ambit of definition of an untoward incident under Section 123 (c) of the Railways Act. Consequently, Issues no. 1 & 2 are decided in favour of the applicant and against the respondent.

Issues no. 3 & 4 :-

19. The applicant No. 1 has filed on record the attested copies of her Aadhar Card, including the Aadhar Card of the deceased issued by Government of India. Also filed is a copy of Statement dated 23.11.2022, by Sunil Kumar Verma, Mukhiya Gram Panchayat, Simaru, Gurua, Gaya stating that the deceased was known to him and that his family was composed of his wife, Ranju Devi and son Satyam Kumar. The same proves the relationship of the applicants with the deceased. Thus, the applicants, being wife and minor son of the deceased, are held to be the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act, 1989.

ORDER

20. Hence, the claim application is allowed and the respondents are directed to pay a sum of Rs. 8,00,000/- (Rupees eight lakhs 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 Principal 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.

21. So far as disbursal of the amount of award is concerned, we have heard the learned counsel for the parties.

22. 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 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."

23. 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 the present

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

24.The total compensation amount may be divided equally between the two applicants- applicant No. 1, Ranju Devi (wife of the deceased) and applicant No. 2, Satyam Kumar (minor son of the deceased) shall each receive Rs. 4,00,000/- (Rupees four lakh only) along with accrued interest.

25. As regards the amount of compensation payable to minor son, Satyam Kumar, the entire amount of Rs. 4,00,000/- (Rupees four lakh only) with accrued interest payable to applicant No. 1, Ranju Devi shall be invested in a FDR in his name under the guardianship of his mother, Ranju Devi in a nationalized bank, near the place of his residence for the period till he attains the age of 18 years. Monthly interest on FDR of Satyam Kumar (minor son of the deceased), will be payable to applicant No. 1, Ranju Devi for the maintenance and welfare of her minor son.

26.10% of the shares of the applicant No. 1, Ranju Devi shall be released forthwith by ECS/NEFT transfer to her savings bank account. Remainder of her shares together with accrued interest, if any, shall be invested in FDRs for a period of three years in her respective name in a nationalized bank, near to the place of her residence, with monthly payment of accrued interest to her.

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27. ADR/RCT/Patna will verify the details of the bank accounts 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. The bank account should be in a Nationalized Bank near her place of permanent residence.

28. The application is allowed in the above terms. No order to costs.

(Ms. Roopa Srinivasan)
Member (Technical)

(Kanwaljit Singh Ahluwalia)
Chairman