



रेल दावा अधिकरण
पटना पीठ, पटना @ चंडीगढ़
RAILWAY CLAIMS TRIBUNAL
PATNA BENCH, PATNA @ CHANDIGARH

Claim Application: OA/II (u)/PNBE/263/2019

CORAM: SH. UMESH KUMAR SHARMA, HON'BLE MEMBER (JUDICIAL)
SH. G. S. HIRA, HON'BLE MEMBER (TECHNICAL)

Date of filing: 04.04.2019
Judgement reserved on: 20.05.2025
Judgement pronounced on: 03.06.2025

1. **Aamna Begam @ Amana Begam,**
aged about 42 years
2. **Md. Jakir Sah @ Md. Jakir Shah**
Aged about 55 years
Both r/o Vill. Dokhar (Dokahar),
PO Belahi PS Kaluahi,
Distt. Madhubani, Bihar

...Applicants

Verses

Union of India,
Through General Manager,
North Eastern Railway, Gorakhpur.

...Respondent

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

Appearances: Sh. Parmod Kumar, Ld. Counsel for the applicants.
Sh. T.N.Thakur, Ld. Counsel for the respondent.

निर्णय
JUDGEMENT

BY UMESH KUMAR SHARMA, MEMBER (JUDICIAL)

1. The applicants have filed this claim application under Section 16 of the Railway Claims Tribunal Act, 1987 seeking compensation to the tune of Rs. 8,00,000/- along with interest, from the respondent railway on account of death of their son Md. Mahfuz (hereinafter

stated to be 'the deceased) in an untoward incident while travelling by passenger train.

2. The brief facts as stated by the applicants in their claim application, are that the deceased had gone to Delhi with his grandfather at his mama's place. After staying there for some days, he was returning back to his home alongwith his grandfather. He purchased a valid journey ticket No. UAC-21985639 dt. 14.07.2018 and boarded Train No. 12562 - Swatantrata Senani Express in presence of his *mamu*, Md. Islam Udin. When the train, in question, reached near Vijaypur Dhala railway station, the deceased accidentally fell down from the train and died on the spot. UD case No. 06/18 dt. 16.7.2018 was registered by Mairwa police and inquest proceedings were conducted. The original ticket pertaining to the deceased was placed on record by the applicants. Thus claiming the deceased to be a bona fide passenger of the train, the incident coming within the purview of untoward incident as defined under Section 123(c)(2) read with Section 124-A of the Railways Act, 1989, and himself to be the only dependent of the deceased, applicants have sought compensation along with interest from the respondent railway.
3. On receipt of the notice, the respondent Railway Administration appeared before the Tribunal and filed written statement and the DRM's Report along with documents relating to the incident on 24.8.2021. The respondent in the written statement stated that the claim application is not maintainable in the present form. It is stated in the claim application that the deceased was neither a bonafide passenger of the train nor he met with an untoward incident. It is in the reply that the inquest report is in respect of 'an unknown male' aged about 14-15 years whereas the post mortem report, placed on record pertains to an unknown female' aged about 15 years. During DRM's inquiry, mother of the deceased, while recording her

statement, has mentioned that the train number and the date of journey mentioned in the claim application are wrong and the deceased started his journey on 15.7.2018 by train No. 12566DN and the alleged incident took place on 16.7.2018 by the said train. If the deceased is supposed to have travel by 12566DN, then it is well ascertained that he has no journey ticket for the said train on 15.07.2018. The train No. 12562 has not crossed Mairwa on the date of the incident. The place of incident is Vijaypur Dhala which falls between Jiradei and Mairwa but there is no entry in the station record. The railway administration has taken a plea that the ticket placed on record is managed one for the purpose of making false claim.

4. On merits, the averments pleaded in the preliminary objections have been reiterated and the contents of the original claim application have been denied either being wrong or for want of knowledge. A prayer has been made to dismiss the claim application with cost
5. On the basis of the pleadings of the parties and the documents on record, on 7.10.2021, following issues were formulated for adjudication:-
 - 1) क्या मृतक दुर्घटना के दौरान रेलवे का एक सदभावी यात्री था ?
 - 2) क्या मृतक की मृत्यु रेल अधिनियम 1989 की धारा 123 (c)(2) की परिधि के अंतर्गत अनपेक्षित घटना में हुई थी ?
 - 3) क्या आवेदिका /आश्रितगण मृतक के आश्रित हैं ?
 - 4) क्या आवेदिका /आश्रितगण प्रतिकर की धनराशि प्राप्त करने के अधिकारी हैं और यदि हाँ तो कितना ?
6. After framing of issues, the matter was listed for applicant's evidence. In the meantime, on 6.9.2022, the applicants moved an application seeking amendment in the claim application. It is stated in the Amendment application that due to typing mistake, Train No. 12562

instead of Train No. 12566 has been mentioned in the OA. It is further stated that the Train No. 12562 does not pass through the place where incident took place. Respondent railway despite giving opportunities, did not file reply to the same and the said Amendment Application was allowed on 3.11.2023. So the OA filed by the applicants stands amended to the extent that the deceased was travelling by Train No. 12566DN.

7. Applicants have filed affidavit of Smt. Amana Begam, applicant No. 1, reiterating the facts as narrated in the claim application. Applicants have also produced Gulam Shan, grandfather and allegedly the co-passenger travelling with the deceased on the date of the incident. He has filed his affidavit AW-2. Both these witnesses duly were cross-examined by the respondent's counsel.
8. The respondent Railways have filed DRM Report along with annexed documents which was collectively marked Ex.R-1. They have not adduced any oral evidence.

FINDINGS

9. We have carefully gone through the pleadings of the parties, material made available on record and the DRM's inquiry report filed by the respondent railway, and heard arguments put forth by the rival parties through their counsel. Our finding on the aforesaid issues are as under:-

ISSUES No. 1 & 2

Both these issues being inter-connected are taken up together for discussion and decision.

10. The case of the applicants is that on 14.7.2018, the deceased alongwith his grandfather was travelling from New Delhi to Darbhanga on the strength of a valid railway journey ticket and he accidentally fell down



- from the running train near Vijaypur railway Dhala and died. The ticket for the deceased was in possession of the co-passenger.
11. To prove their case, applicants have placed on record original ticket bearing No. UAC-21985639 dt. 14.07.2018. The Ticket verification report issued by the office of CCM/PM, IRCA Building, New Delhi has revealed that the said ticket was issued on 14.7.2018 at 13:32 hrs., ex. New Delhi to Darbhanga for one adult. In view of this verification report, the ticket is held to be genuine one.
 12. The definition of the 'passenger' as has been given under Section 2(29) of the Railways Act, 1989 states as under:
"Passenger" means a person travelling with a valid pass or ticket. It means, firstly it has to be proved beyond doubt that the deceased was travelling in some train with a valid authority at the time of incident.
 13. So far as the status of the deceased as a bonafide passenger on the said ticket is concerned, the ticket in original has been placed on record by the applicants claiming that this ticket pertains to the deceased. However, it does not bear name, age or any other detail of the passenger. Applicant No. 1, in her affidavit has averred that her father (grandfather of the deceased) was accompanying the deceased from New Delhi to Darbhanga on 14.7.2018. Further AW-2, in his affidavit has stated that he paid for the tickets. The deceased had purchased two tickets and handover the tickets and the remaining amount to him. So both the tickets were in his possession. After reaching home, he handed over the ticket to her daughter, Amna Begum (mother of the deceased) and the same is placed on record. But during cross-examination, to the question, as to where both the tickets are, the witness replied that one ticket was taken away by the

station staff and another one he handed over to her daughter, Amna Begum.

14. It is the case of the applicants that the ticket was purchased on 14.7.2018. The deceased was travelling by train No. 12562, which was subsequently changed to train No. 12566DN by way of an amendment application. As per witness AW-2, he does remember most of the facts about the incident, however, it was daytime when the train, in question started from New Delhi. It is also on record that the dead body of the deceased was found lying near Vijaypur Dhala in the wee hours on 16.07.2018. Had the deceased and his co-passenger been travelling as bonafide passenger, in the train No. 12566, the dead body of the deceased would have been recovered on 15.7.2018, whereas the dead body of the deceased was noticed lying at 05:30 hrs on 16.7.2018 meaning thereby either the journey did not start on 14.07.2018 or the ticket did not pertain to the journey dated 15.7.2018. If the journey started on 15.07.2018, the ticket purchased on 14.7.2018 would automatically render invalid, and the passengers, not bonafide passengers as defined under Section 2(29) of the Railways Act, 1989.
15. Coming to the happening of incident, coming within the ambit Section 123(c)(2) of the Railways Act, 1989, applicant no. 1, in her affidavit has averred that the deceased fell down from the moving train and died. However, she was not accompanying him on the date of incident. During her cross-examination, witness stated :

"मेरा लड़का दिल्ली में पढ़ता था।

मृतक नई दिल्ली से 14.07.2018 को चला था और घटना 15.07.2018 को हुई। मुझे घटना कि सूचना 16.07.2018 को 10 बजे मिली थी। पुलिस वालों ने मेरे पुत्र के पास से मिले मोबाइल से हमें घटना कि सूचना दिए थे। मेरे पुत्र के मोबाइल से मेरे मोबाइल पर फोन आया था।

मेरे पिताजी जो सहायत्री थे ट्रेन से उतर कर हमारे घर आ गए थे जब घटना की सुचना हमें मिली तो सुचना के बाद वे भी घटना स्थल पर गए।

16. Firstly, the journey was stated on 14.7.2018 and co-passenger (AW-2) would have reached home on 15.7.2018. Having known, that the deceased got missing en-route, there was no search for the deceased nor there was any FIR lodged with the police. The dead body of the deceased was noticed lying at the site on 16.7.2018. In view of the contents of the petition, and the sequence of events, the deceased allegedly fell down from the train in the intervening night of 14 & 15.7.2018. However, it is not possible that the dead body of the deceased remained lying unnoticed at the site till morning of 16.7.2018.
17. AW-2, grandfather and alleged co-passenger travelling with the deceased on the fateful day, in his affidavit has deposed :

यह कि यात्रा के क्रम में मेरा नाती दिनांक 15.07.2018 को भैरवा स्टेशन के नज़दीक चलती ट्रेन से गिर कर मर गया था जिस कि सुचना रेल थाना भैरवा के पुलिस पदाधिकारी के द्वारा मेरे नाती के घर पर दिया गया था। यह कि जब मैं दरभंगा स्टेशन पहुँचा तो अपने नाती को नहीं देखा तब मैं अपने घर छौराही चला गया तो घटना कि जानकारी मिली।"

18. He was cross-examined at length. The relevant portion of his memo of cross-examination is reproduced as under :

प्रश्न यह शपथ पत्र क्या आपने बनवाया है क्या इस में जो बातें लिखी हुई है वह आपकी जानकारी में हैं ?
उत्तर मुझे किसी भी कागज़ में क्या लिखा हुआ है उसकी जानकारी नहीं है मैं अनपढ़ हूँ तथा दोनों आँखों से मुझे दिखाई नहीं देता है।
प्रश्न किस तिथि को कितने बजे यह घटना हुई थी आपको पता है ?
उत्तर यह घटना लगभग 6 साल पूर्व हुई है इसके अतिरिक्त मैं और कुछ नहीं बता सकता हूँ।
प्रश्न घटना के समय आप का निवास कहाँ था ?
उत्तर मैं अपने गाँव में अपने घर पर रहता था।
प्रश्न दिल्ली में आपका पुत्र कहाँ रहता था आपको याद है ?
उत्तर जी नहीं।

प्रश्न क्या आप को वापस लौटने कि यात्रा कि तिथि याद है ?

उत्तर जी नहीं ।

प्रश्न आपके टिकट को आप के पुत्र ने कटाया था या आपके नाती ने ?

उत्तर मुझे याद नहीं।

पुनः कहते है कि दोनों साथ साथ टिकट कटाने गए थे और मैंने टिकट के लिए 700 रुपये दिए थे टिकट कटाने के बाद मेरा नाती मेरे पास आ गया था तथा मेरा बेटा बाहर से ही चला गया था ।

प्रश्न ट्रेन कितने बजे अथवा किस समय पकड़ी थी ?

उत्तर जहाँ तक मुझे याद है उस समय उजाला था अँधेरा नहीं हुआ था इस के अतिरिक्त मुझे समय याद नहीं है ।

प्रश्न कितने टिकट थे और टिकट किस के पास थे ?

उत्तर दो टिकट थे और दोनों मेरे पास थे ।

प्रश्न आप यात्रा के दौरान बैठे थे या खड़े थे ?

उत्तर हम दोनों बैठे थे ।

प्रश्न आप को घटना कि सुचना कब मिली थी ?

उत्तर दरभंगा पहुँचने के बाद मैं अपने घर चला गया था और अगले दिन सुबह मैं मुझे किसी थाने से दरोंगा का फ़ोन आया था कि मेरा नाती घायल हो गया है और उसे हॉस्पिटल भेजा गया है । तिथि मुझे याद नहीं है।

प्रश्न आप का नाती कहाँ रहता था ?

उत्तर वह मेरे गाँव में रहकर पढ़ता था

प्रश्न आप किस ट्रेन से यात्रा कर रहे थे याद है ?

उत्तर जी नहीं ।

प्रश्न जो दो टिकट खरीदे गए थे वह कहाँ है ?

उत्तर एक टिकट स्टेशन पर मुहसे रेलवे वाले ने ले दिया था तथा दूसरा टिकट मैंने अपनी लड़की को दे दिया था ?

प्रश्न क्या आप ने दरभंगा पहुँच कर अपने नाती को खोजा नहीं था ?

उत्तर रास्ते में मेरा नाती कह रहा था कि वह अपनी माँ के घर जाएगा जबकि मैं उसे अपने घर ले जाना चाहता था । दरभंगा में जब वह मुझे नहीं मिला तो मैंने सोचा कि वह अपनी माँ के घर चला गया है ।

19. From the testimony of AW-1 and AW-2, we find a lot of contradictions and inconsistencies, firstly, in the statement of applicant No.1, that her deceased son was residing and studying at New Delhi, whereas AW-2 say the deceased was staying and studying at his village. Secondly, applicant No. 1 has stated that his father, after deboarding the train, reached her home whereas AW-2 says he went to his home and received the information as to the incident on the next day. While

deposing before this Tribunal, he showed his ignorance about most of the facts related to the tickets, documents, train, time of boarding and the incident etc. If it is so believed, that he was travelling with the deceased on the fateful day, how did the old man remained calm and quite when her grandson was lost during the course of journey. Supposedly they were travelling by 12566 DN, which might have passed the place of occurrence in the intervening night of 14/15.7.2018, this witness nowhere mentioned when did he come to know that his grandson was missing. How did he keep travelling without the deceased, who, as per record, was a child aged about 13 years. Furthermore, it is not clear where did the AW-2, the grandfather of the deceased, actually go after de-boarding the train; to his own village or to her daughter's village. If he had gone to his daughter's place, did he informed her that the deceased was missing. The applicants have miserably failed to address these questions.

20. From the discussion hereinabove, it is clear that the applicants are not divulging the correct facts, consequently, in the absence of reliable evidence, we cannot give credence to the testimonies of AW-1 and AW-2. And therefore, we cannot hold that the deceased was a bonafide passenger on the date of the incident or died in an untoward incident as a result of fall from the train. Hence the issue No.1 and 2 are decided against the applicants and in favour of the respondent.

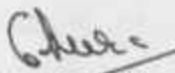
Issue No.3 & 4

21. In view of finding of issues no. (1) & (2) above, wherein it has been held that deceased was not a bona fide passenger and the incident in question does not come within the purview of 'untoward incident' as defined in the Railways Act, 1989, the discussion on these issues will be a redundant exercise and hence, relieved. And it is:

आदेश
ORDER

22. That the present claim application of the applicants is dismissed being devoid of merits. There shall be no order as to costs.
23. Registry is directed to send a free certified copy of this judgment directly to the applicant at her postal address mentioned in the claim application by Speed Post in view of Rule 34(3) of the Railway Claims Tribunal (Procedure) Rules, 1989 and after due compliance, file be consigned to the Record Room.

Judgment pronounced, signed and sealed today i.e., 03.06.2025


(G.S. Hira)
Member (Technical)
RCT/Chandigarh


(Umesh K. Sharma)
Member (Judicial)
RCT/Chandigarh