



रेल दावा न्यायाधिकरण, पटना

RAILWAY CLAIMS TRIBUNAL, PATNA

No. OA(IIu)/PNBE/273/2023

CORAM: Shri Ram Babu Sharma, Hon'ble Member (Judicial)

Date of Registration: 14.07.2023

Date of decision: 12.03.2025

1. Anjani Kumari, W/o Sanjay Chaudhary
2. Rakhi Kumari, minor D/o Sanjay Chaudhary
3. Vikram Kumar, minor S/o Sanjay Chaudhary
4. Shivam Kumar, minor S/o Sanjay Chaudhary

All R/o VIII/ Moh: Barki Delha Vijay Vigha,

P.O: R.S. Gaya, P.S.: Delha,

District- Gaya,

Bihar.

... Applicant

Versus

1. Union of India,
Through the General Manager,
East Central Railway, Hajipur
2. Sugiya Devi, W/o Late Baleshwar Chaudhary

... Respondent

Claim for ₹ 8,00,000/- with interest.

Appearances:

Shri Pramod Kumar

Ld. counsel for the applicant

Smt P.R. Laxmi

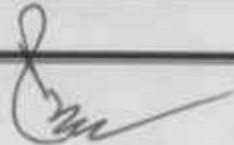
Ld. counsel for the respondent

निर्णय

JUDGEMENT

BY SHRI. RAM BABU SHARMA, MEMBER (JUDICIAL):

1. A claim application has been filed by Anjani Kumari and others before this Tribunal, under Section 16 of the Railways Claims Act, 1987, for the payment of compensation of ₹8,00,000/- (Rupees Eight Lakh only) along with interest on account of death of Sanjay Chaudhary, allegedly in an untoward incident.
2. The brief facts of the case as stated by the applicants are that on **03.11.2021**, the deceased **Sanjay Chaudhary** in presence of **Niranjan Kumar Chaudhary** purchased a passenger ticket from Gaya to Jehanabad and boarded Gaya- Patna passenger train. There was heavy rush in the said train. The said train started with jolt, due to which the deceased fell from the said running train at Gaya resulting amputated both legs and many grievous injuries. The on-duty rail police brought the injured to A.N.M.M.C.H., Gaya for treatment and informed the family of the injured. Thereafter, family members reached A.N.M.M.C.H., Gaya where the deceased was in injured condition. In course of treatment the deceased died on 30.11.2021. S.I., Magadh Medical Police Station, Gaya recorded the *fardbayan* of Arjun Chaudhary and forward to G.R.P., Gaya. A U.D. case 2/22 dated 04.01.2022 was registered at Rail Thana Gaya. The journey ticket was lost in untoward incident.
3. On receipt of notice, the Respondent Railway Administration appeared before the Tribunal through its counsel and filed a written statement stating that the O.A. filed by the applicant is not maintainable either on facts or on law. As per the inquest report no valid journey train ticket or authority to travel was recovered from the possession of the victim. Hence, the victim was not a *bona fide* passenger of any passenger carrying train. The victim died by his own fault or negligence in which respondent cannot be responsible. The inquest report has been prepared in presence of those witnesses who were not an eye witness of the incident. There is no eye witness



of the whole story. The victim gets injured due to hit by any running train while unauthorized use of railway track. The respondent railway could not be saddled with any liability and the applicant is not entitled to get any compensation under the Railways Act, 1989. It is neither an accident nor an untoward incident for which claims of compensation under section 124 A of the Railways, 1989. Therefore, dismissal of the case was prayed for.

4. Based on rival pleadings the Tribunal framed the following issues for adjudication on 24.11.2023:
 - a. *Whether the deceased was a bona fide passenger of train in question?*
 - b. *Whether death of the deceased was caused in an untoward incident as defined under section 123 (c) (2) read with section 124 A of the Railway Act, 1989?*
 - c. *Who are the dependents of the deceased?*
 - d. *What amount of compensation are the dependent(s) entitled to receive?*
5. In support of the claim, the applicants had filed the following documents along with the claim application:

Sr.	Document	Annexures
1.	Certified copy of fardbayan	A-1
2.	Certified copy of inquest report	A-2
3.	Certified copy of post- mortem report	A-3
4.	Certified copy of final report	A-4
5.	Photo copy of dependency certificate	A-5
6.	Photo copy of Aadhar card	A-6

6. The applicant, **Anjani Kumari**, AW-1 was cross-examined by Smt P.R. Laxmi, Railway advocate on 10.07.2024.



7. **Niranjan Kumar Chaudhary**, AW-2 was cross- examined by Smt P.R. Laxmi, Railway advocate on 22.10.2024.
8. The respondent filed the DRM's Report along with supporting documents, collectively marked as Ex.R1, but did not adduce any oral evidence.

कारणों सहित निर्णय

DECISION WITH REASONS

9. Heard the arguments of both the parties and perused the evidence on record. My findings on the issues are as under:

Issue Nos. 1 & 2:

Since these two issues are interlinked, they are being taken up together:

10. The learned counsel for the applicant submitted that on **03.11.2021**, the deceased **Sanjay Chaudhary** in presence of **Niranjan Kumar Chaudhary** purchased a passenger ticket from Gaya to Jehanabad and boarded Gaya- Patna passenger train. There was heavy rush in the said train. The said train started with jolt, due to which the deceased fell from the said running train at Gaya resulting amputated both legs and many grievous injuries. The on-duty rail police brought the injured to A.N.M.M.C.H., Gaya for treatment and informed the family of the injured. Thereafter, family members reached A.N.M.M.C.H., Gaya where the deceased was in injured condition. In course of treatment the deceased died on 30.11.2021. S.I., Magadh Medical Police Station, Gaya recorded the *fardebayan* of Arjun Chaudhary and forward to G.R.P., Gaya. A U.D. case 2/22 dated 04.01.2022 was registered at Rail Thana Gaya. The journey ticket was lost in untoward incident.
11. In addition to averments made in the written statement, learned counsel for the Respondent submitted that the deceased was neither a *bona fide* passenger nor untoward incident occurred.

No journey ticket was recovered from the possession of the deceased. Niranjan Kumar Choudhary was not an eye witness of the purchasing of the journey ticket by the deceased. There is no eyewitness of the alleged incident. Hence, Ld. Counsel for the Respondent submitted that the applicants were not entitled to any compensation claimed for and prayed for dismissal of the claim application.

12. The Railways Act, 1989 defines an untoward incident in Section 123 as the following:

[(c) "untoward incident" means—

(1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.]

13. The applicants had not annexed the copy of station memo. However, station memo is annexed with DRM's report. Station Memo issued by Station Master, Gaya to GRP/RPF/Sr. DMO, Gaya on 03.11.2021 at 09:55 hrs mentions:

" As per passenger one male person aged about 25 years injured near KM 469/10 PF no. 1

H/end so please arrange and dispose the same. "

14. The inquest report was prepared at ward no. 03, Emergency ICU, Anugrah Narayan Magadh Medical Hospital, Gaya on 01.12.2021. In column-7, there is no recovery of journey ticket from the possession of the deceased. The column-9 mention "रेल दुर्घटना में गंभीर रूप से घायल व ईलाज के दौरान मृत्यु होना प्रतीत होता है।".



15. The Final report submitted by Rail Thana, Gaya concluded:

" ... अतः अब तक के जाँच घटना का निरीक्षण गवाहों का बयान एवं रेल पुलिस निरीक्षक महोदय गया के आदेशानुसार इस यू० डी० काण्ड के मृतक संजय चौधरी उम्र करीब 35 वर्ष पेट स्का बलेश्वर चौधरी ... की मृत्यु गया- पटना सवारी गाड़ी से यात्रा के क्रम में मृत्यु होना सत्य पाते हुए अंतिम प्रतिवेदन सं० 02/22 दिनांक 06.01.2022 को समर्पित करता हूँ। "

16. We shall be guided by the decision of the Hon'ble Supreme Court in the case of Civil Appeal No. 4945 of 2017 dated 09 May 2018, **Union of India vs. Rina Devi**, where it was held:

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.

17. Anjani Kumar, AW-1 in para- 6 of her affidavit stated:

"यह कि मेरे पति को टिकट कटाते निरंजन कुमार चौधरी देखे थे क्योंकि वे मेरे पति को गया स्टेशन तक छोड़ने गये थे। "

18. There was no recovery of journey ticket during preparation of the inquest report. Anjani Kumari, AW-1 fairly admitted that she had not seen the deceased purchasing the journey ticket, boarding the train and falling from it. Thus, it is evident that Anjani Kumari, AW-1 neither eye witness of the said incident nor purchasing of the journey ticket by the deceased. However, Anjani Kumari, AW-1 in her original application as well as in her affidavit stated that **Niranjan Kumar Choudhary** had seen the deceased purchasing the journey ticket. Further, to support the claim application the applicants produced Niranjan Kumar Choudhary as AW-2 before the Tribunal for his deposition.



19. Niranjana Kumar Choudhary, AW-2 in para- 3 his affidavit stated:

"यह कि मैं संजय चौधरी को गया जंक्शन से जहानाबाद स्टेशन तक का रेल टिकट कटाते, गया पटना पैसेन्जर ट्रेन पर चढ़ते हुए देखा था लेकिन ट्रेन से गिरते हुए नहीं देखा था। क्योंकि ट्रेन खुलने के बाद मैं वापस लौट गया था।"

20. Niranjana Kumar Choudhary (AW-2) stated the relevant facts through his affidavit that deceased purchased the journey ticket in his presence. Ld. Counsel for the respondent had cross-examined Niranjana Kumar Choudhary (AW-2) at length and during cross-examination of Niranjana Kumar Choudhary (AW-2), affirmed that he saw deceased purchasing the journey ticket. Thus, the onus is shifted to Respondent to disprove the *bona fide* status of the deceased which is not contradicted by the Respondent, so *bona fide* status of the deceased is proved.

21. The post-mortem was conducted on 01.12.2021 at 03:30 PM. The contents of the report as follows:

"External Injuries:

1. Multiple bruises & abrasions were present over body of deceased.
2. One lacerated wound 13" x 5" x bone deep was present over rt. Upper thigh. The rt. Lower limb was absent from ... site. Bone was fracture ... was lacerated wound 5"x 3" was present over left ankle joint. Bone was severely damaged & left foot was missing from ... site.
3. On dissection of chest cavity & abd cavity both lungs & all solid abd viscera were pale. Brain & its meninges were pale.

Opinion:

Above noted injuries were antemortem. Injury n (1) was simple white injury n (2) (3) were grievous & dangerous to life in ordinary course of nature & caused by hard & blunt force. (may be Rail accident)

Cause of death: Haemorrhage & shock

Times Since death: 02 hrs to 08 hrs from time of PM exam approx."

The injuries mention in SI no. 1 are possible by falling from a train.

22. The DRM's report concluded:

"1. मृतक रेल यात्री नहीं था।

2. मृतक के पास यात्रा संबंधी कोई प्राधिकार पत्र नहीं पाया गया।

3. पीड़ित की मृत्यु किसी अज्ञात गाड़ी की चपेट में आने के कारण गंभीर रूप से घायल व मगध मेडीकल अस्पताल में ईलाज के दौरान मृत्यु हुई है।

4. घटना किसी अज्ञात गाड़ी के चपेट में आने के कारण घटी है। अतः घटना अनापेक्षित घटना की श्रेणी में नहीं आती है। "

23. The respondent railway has not produced any eye witness of the said incident. There is no statement of any loco pilot or train guard regarding the said incident. Further, final report suggests accidental fall. There is no cogent evidence of runover.

24. I have given the anxious consideration to the rival submissions and carefully perused the material made available on record on behalf of both the sides and it is concluded that Sanjay Chaudhary was a *bona fide* passenger and his death occurred due to an untoward incident as a result of an accidental fall from the passenger carrying train within the meaning of Section 123 (c)(2) of the Railways Act, 1989. Accordingly, the issue nos. 01 and 02 are decided in favour of the applicants and against the respondent.

Issue Nos. 3 & 4 :

25. The present OA has been filed by the Anjani Kumari and others for seeking the compensation as being the dependents of the deceased. The applicant had also submitted family member certificate issued by Ward Parsad, Ward no. 02, Gaya Nagar Nigam, Gaya. Further, Sugiya Devi (mother of the deceased) appeared as Performa Respondent in the instant case. As per family member certificate and affidavit of Anjani Kumari, Anjani Kumari (wife of the deceased), Vikram Kumar (son of the deceased), Rakhi Kumari (daughter of the deceased), Shivam Kumar (son of the deceased) and Sugiya Devi (mother of the deceased) are shown as the dependents of the

deceased. Therefore, having regard to the fact that the applicants have preferred a claim, which has not been repudiated by the respondent by adducing any contrary evidence, this Tribunal has no other alternative except to hold that Anjani Kumari (wife of the deceased), Vikram Kumar (son of the deceased), Rakhi Kumari (daughter of the deceased), Shivam Kumar (son of the deceased) and Sugiya Devi (mother of the deceased) are the only dependents of the deceased and entitled for compensation. During the pendency of the matter nobody appeared claiming himself/herself to be the dependents of the deceased.

26. Thus, the applicants being the only dependents of the deceased within the meaning of Section 123(b) of the Railways Act, 1989, are entitled to get an amount of ₹8,00,000/- as compensation 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). The issue nos. 3 and 4 are decided accordingly.

ORDERED

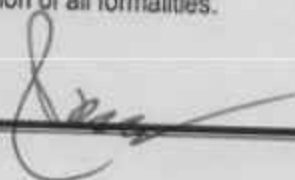
27. The claim application of the applicants is allowed. The respondent Railway Administration is directed to pay ₹8,00,000/- along with interest @ 6% per annum from the date of the registration to date of decision to the applicant(s) as under:

Sl. No.	Name of the Applicant(s)	Relationship with deceased	Age in years	Amount Awarded (Rs.)	Transfer of respective share to the account of party/parties (₹)	Amount to be kept in Fixed Deposit for a period of three years (₹)
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1.	Anjani Kumari	wife	37	₹4,00,000	₹80,000	₹3,20,000
2.	Rakhi Kumari	Minor daughter	16	₹1,00,000	Nil	₹1,00,000*

Sl. No	Name of the Applicant(s)	Relationship with deceased	Age in years	Amount Awarded (Rs.)	Transfer of respective share to the account of party/parties (₹)	Amount to be kept in Fixed Deposit for a period of three years (₹)
(a)	(b)	(c)	(d)	(e)	(f)	(g)
3.	Vikram Kumar	Minor son	14	₹1,00,000	Nil	₹1,00,000*
4.	Shivam Kumar	Minor son	11	₹1,00,000	Nil	₹1,00,000*
5.	Sugiya Devi	mother	75	₹1,00,000	₹10,000	₹90,000

Note: * Shares of Rakhi Kumari, Vikram Kumar and Shivam Kumar will be kept in fixed deposit till they attain majority or Three years, whichever, is later.

28. The shares of Rakhi Kumari (minor daughter), Vikram Kumar (minor son) and Shivam Kumar (minor son) shall be deposited in term deposit scheme in any nationalized Bank opened under the guardianship of their mother Anjani Kumari, nearest to the permanent place of his residence, for a period of attaining their majority or for three years, whichever is later. Their mother, Anjani Kumari will be entitled to draw the interest on fixed deposit at regular interval for upkeep/maintenance of their minor children. The accumulated interest, if any, along with the principal amounts will be paid on the date of maturity for use without any further direction.
29. The respondent Railway Administration is hereby directed to deposit the amount awarded alongwith interest with the Additional Registrar of this Tribunal within a period of 30 days from the date of communication of the award failing which the applicants shall be entitled to receive interest @ 9% per annum from the date of award till the actual date of depositing the amount with the Additional Registrar. The Additional Registrar also directed to pay compensation amount to the applicants/beneficiaries within 90 days only after completion of all formalities.



30. The applicants are hereby directed to submit the details of their Aadhaar linked Bank accounts of a Nationalized Bank mentioned in the schedule Appendix-I of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, situated nearest to their place of residence to the Additional Registrar of this Tribunal.

31. Terms and conditions:

a. The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the Claimant(s) i.e. the savings bank account(s) of the Claimant(s) shall be an individual savings bank account(s) and not a joint account(s).

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

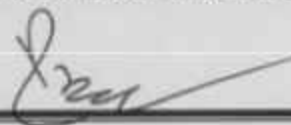
c. The monthly interest be credited by Electronic Clearing system (ECS) in the savings bank account of the Claimant(s) near the place of their residence.

d. The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of their residence.

e. No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the RCT.

f. The concerned bank shall not issue any cheque book and/or debit card to the Claimant(s). However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall freeze the account of the Claimant(s) so that no debit card be issued in respect of the account of the Claimant(s) from any other branch of the bank.

g. The bank shall make an endorsement on the passbook of the Claimant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission

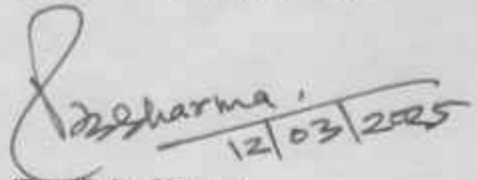


of the RCT and Claimant(s) shall produce the passbook with the necessary endorsement before the RCT on the next date fixed for compliance.

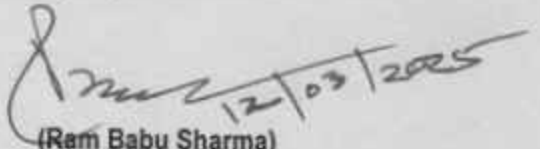
h. It is clarified that the endorsement made by the bank along with the duly signed and stamped by the bank official on the passbook(s) of the Claimant(s) is sufficient compliance of clause (g) above.

i. The concerned Bank of the claimant(s) be directed to permit the claimant to withdraw money from his savings bank account by means of a withdrawal form only.

32. Copy of this order be supplied to both the parties free of costs, and the file, after its due completion, be consigned to the Record Room.


(Ram Babu Sharma)
Member (Judicial)
RCT Patna
12.03.2025

The Judgment has been signed and pronounced in the open court today i.e., on 12.03.2025


(Ram Babu Sharma)
Member (Judicial)
RCT Patna
12.03.2025