



पटना पीठ, पटना @ चंडीगढ़
RAILWAY CLAIMS TRIBUNAL
PATNA BENCH, PATNA @ CHANDIGARH

Claim Application: OA/II (u)/PNBE/293/2019

CORAM: Sh. G. S. Hira, Hon'ble Member (Technical)/ Chandigarh

Date of filing of OA : 03.04.2019

Judgement reserved on: 09.07.2025

Judgement pronounced on : 14.07.2025

1. **Anita Devi (mother)**
w/o Sh. Upendra Panday

2. **Upendra Panday**
s/o late Triveni Panday

Both r/o Vill. Saidichak, PO Sesamba,
PS Sakurabad, Anchal Ratni Faridpur,
Distt. Jehanabad, Bihar-804 425

...Applicants

Verses

1. **Union of India,**
Through General Manager,
East Central Railway,
Hajipur.

2. **Divisional Commercial Manager,**
East Central Railway, Danapur.

.....Respondents

Claim for Rs. 25,00,000/- along with interest

Appearances: None for the applicants.

Sh. Radhika Raman, Id. Counsel for the respondent.

Sh. Radhika Raman
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JUDGEMENT

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. 25,00,000/- along with interest, from the respondent railway on account of death of Banty Kumar @ Banty Pandey, allegedly in an untoward incident while travelling by passenger train.
2. The brief facts as stated by the applicants in their claim application, are that on 16.04.2018, Banty Kumar @ Banty Panday (hereinafter referred to be the deceased) after purchasing a 2nd class railway journey ticket No. URB98786308 dt. 16.4.2018 was travelling from Patna to Gaya Jn. in Patna – Hatia Express train (UP 18623) as he was going to Paharpur with his maternal uncle, Paras Tiwari and aunt, Meena Devi. At about 10:30 PM, when the train started from Nadaul station, and was crossing Sevanan Halt, the deceased went towards the gate of the compartment to attend a phone call as sound was not clear in the running train. In the meantime, 3-4 bad elements tried to snatch away his mobile No. 6201697708. They also started fighting with the co-passenger, Paras Tiwari to which the deceased resisted. They threw the deceased out from the moving train. After pulling chain, they fled away. Co-passenger Paras Tiwari and his wife also deboarded the train and started searching for the deceased but it being night time, they could not trace him. At about 4.00 AM, family members of the deceased reached at the place of occurrence and contacted GRP, Jehanabad but no action was taken by the police. Applicants, with the help of local villagers recovered the dead body of the deceased in badly mutilated state near Sevanan halt.

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Thereafter, GRP reached the site and sent the dead body of the deceased for post mortem. At the request of applicants, case No. 25/18 was registered by the GRP. The news regarding incident in question was published in several newspapers. The ticket was recovered from dead body of the deceased. 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 themselves to be the only dependents of the deceased, applicants have sought compensation alongwith 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. The respondent in the written statement stated that the deceased was not a bonafide passenger of the train. No memo was issued in the matter. The incident causing death of the deceased does not fall within the ambit of Section 123(c)(2) of the Railways Act, 1989. As per postmortem report, several parts of dead body, including head of the deceased, were not recovered, so prima facie it seems to be criminal case.
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 16.3.2021, following issues were formulated for adjudication:-

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- 1) क्या मृतक ट्रेन सं. 18623 का एक सदभावना यात्रा 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. In evidence, applicant's counsel has examined-in-chief AW-1, Anita Devi. Applicants have filed affidavit AW-2 of Paras Tiwari, AW-3 of Meena Devi and PW-1 of Upendra Panday. All these witnesses were duly cross-examined by the respondent's counsel. Applicants alongwith their claim application, have filed certified copies of FIR, application by Paras Tiwari to GRP, Final Report of GRP, Post mortem report, railway journey ticket bearing No. URB98786308, death certificate of the deceased, application by the applicant to the Minister of Railways, Character certificate of the deceased, fee slips of Buddha Welfare Organization/Buddha Industrial Training Centre, certificates of the deceased, Indian Army, Directorate General of Recruiting card, newspaper cuttings of local newspapers w.r.t. the incident in question, and the family details certificate.
7. The respondent Railways have filed DRM Report along with annexed documents which was collectively marked Ex.R-1. They did not adduce any oral evidence.

FINDINGS

8. I have carefully gone through the pleadings of the parties, material made available on record and the DRM's inquiry report filed by the respondent

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railway, and heard arguments put forth by the Counsel for the respondent. My 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.

9. The case of the applicants is that on 16.4.2018, the deceased after purchasing a valid railway journey ticket from railway station, Patna was going to Gaya Jn. by train No. 18623 UP Patna – Hatia Express train, alongwith his maternal uncle and aunt. During the course of journey, some criminal elements tried to snatch away his mobile phone and in that process pushed him out of the running train resulting into his death on the spot. The ticket was recovered from dead body of the deceased.
10. To prove their case, applicants have placed on record certified copy of the railway journey ticket bearing No. URB98786308 dt. 16.4.2018, ex.Patna to Gaya Jn. Although there is no formal search memo placed on the record by the applicants, it is averred in their petition that this ticket pertains to the deceased.
11. On the other hand, respondent railway in their DRM's report have admitted that the ticket was recovered from dead body of the deceased. Alongwith their DRM's report, they have filed Ticket Verification Report by Booking Office, Patna whereby the same was admitted to have been issued on 16.4.2018, in shift-03, by Counter No. 30 at railway station, Patna. In view of the said verification report, authenticity of the ticket

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is proved and it is held beyond doubt that the deceased was travelling on the strength of a valid railway journey ticket.

12. So far as the incident coming within the ambit Section 123(c) of the Railways Act, 1989 is concerned, the applicants have placed on record certified copy of the FIR No. 25/18 dt. 17.4.2018 registered at the information given by Paras Tiwari s/o Sh. Kailash Tiwari, r/o Vill. Pahadpur, Thana Fatehpur, Distt. Gaya. This document reveals the occurrence of offence as 'hatya' on 16.4.2018 at about 10:30 PM. It indicates the place of incident as 'नदील स्टेशन से चलायमान पटना हटिया एक्सप्रेस ट्रेन' suspects in the matter as 'अज्ञात 3-4 व्यक्ति' and the articles stolen as 'एक मोबाइल जिस में 62016 97708' Applicants have also relied upon certified copy of Final Report of the GRP, Jehanabad which has been filed concluding the matter as 'सत्य सुत्रहीन'

13. The final report in the matter also reads that :

"काण्ड का सारांश यह है कि दिनांक 17.4.18 को बाड़ी परस तिवारी उम्र करीब 35 वर्ष पे. श्री कैलाश तिवारी सा. पहाडपुर थाना फतेहपुर जिला गया के लिखित आवेदन के आधार पर अज्ञात 3-4 व्यक्ति के विरुद्ध वादी एवं वादी के भगिना मृतक बंटी कुमार के साथ मार पीट करते हुए मोबाइल को लूट लेने तथा मृतक बंटी पाण्डेय को चलती गाडी से धक्का देकर नीचे गिरा देने एवं उन्हें गंभीर रूप से चोट लगने के कारण मृत्यु हो जाने का आरोप में काण्ड प्रतिवेदित कराया गया है

अब तक के अनुसन्धान घटना स्थल के निरिक्षण वादी एवं गवाही के ब्यान एवं पर्यवेक्षण टिप्पणी तथा बरी. पदाधिकारी के द्वारा निर्गत अंतिम प्रगति प्रतिवेदन सं. दो एवं तीन से यह काण्ड धारा 394/302/201 भा.द.वि.के अंतर्गत अज्ञात अभियुक्तों के विरुद्ध सत्य प्रतीत होना पाया गया है।'

14. Applicants have examined AW-1, Anita Devi, mother of the deceased and PW-1, Upendra Panday, father of the deceased. Both the witnesses

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unknown criminals. However, both these witnesses have affirmed that they were not accompanying the deceased at the time of incident. So their testimony is not worth of much credit.

15. Applicants have also examined Paras Tiwari and Meena Devi, who have reiterated the same facts as narrated in the claim application. While deposing before the Tribunal, AW-2, Paras Tiwari has stated :

‘मैं मृतक का मामा हूँ मैं मृतक के साथ यात्रा कर रहा था मैं बंदी के साथ बीच बोगी में बैठा हुआ था मैंने टिकट खरीदा था मेरा टिकट कहीं खो गया है घटना सेवनन हाल्ट के पास घटित हुई थी. दुर्घटना होने से पहले भगना मृतक बंदी पण्डे के मोबाइल पर किसी आदमी का फ़ोन आया फ़ोन करते हुए बंदी बाथरूम के पास गया | बाथरूम के पास 4-5 लोगो ने मोबाइल छीना और भांजा बंदी को धक्का दे कर गाड़ी से गिरा दियायह कहना गलत है की यह घटना आपसी रंजिश के कारण घटित हुई है यह कहना गलत है कि मैं मुआवजा के लिए झूठा गवाही देने के लिए आया हूँ।’

AW-3, Meena Devi, maternal aunt of the deceased has also narrated the same facts before the Tribunal.

16. The averments made by the applicants are corroborated by the final conclusion of DRM's report wherein it is mentioned that :

‘जांच में पाए गए साक्ष्यों, गवाहों के ब्यान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतक बंदी कुमार उर्फ पाण्डेय उम्र लगभग 20 वर्ष पे. उपेन्द्र पाण्डेय सा. सैदीचक थाना शकुराबाद जिला जहानाबाद के पास से एक रेल यात्रा टिकट सं. यू आर बी 98786308 पाया गया जिस का सत्यापन कराने पर सही पाया गया | मृतक की मृत्यु गाड़ी सं. 18623 अप पटना – हटिया रांची एक्सप्रेस से गिरने के क्रम में हुई है अतः उपरोक्त परिस्थिति में रेल प्रशासन की कोई जिम्मेवारी नहीं बनती है घटना रेल अधिनियम की धारा 123 की उप धारा (ग) में परिभाषित अनापेक्षित घटना में वर्णित परिस्थितियों में घटित नहीं हुई है।’

17. Respondent railway have argued that the incident causing death of the deceased does not falls within the purview of Section 123(c)(2) of the

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and the same is reproduced as under :-

'Section 123(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.

18. In view of discussions made here-in-above, it is held beyond doubt that that the deceased was a bonafide passenger of the train No. 18623 UP and he died as a result of an "untoward incident" coming within the meaning of Section 123(c)(ii) read with Section 124-A of the Railways Act, 1989. Accordingly, both these issues are decided in favour of the applicants.

ISSUES NO. 3 & 4

Both these issues are inter-connected, hence, the same are disposed of simultaneously.

19. The claim application has been preferred by the applicants, claiming themselves to be the dependents of the deceased as the deceased was unmarried at the time of his death. In order to prove their relationship with the deceased, they have placed on record the copies of their Aadhar Cards alongwith Aadhar Card and Death Certificate of the deceased.



railway have not adduced any evidence to dislodge the claim of the applicants. In view of the documentary evidence, applicant No. 1 and 2 are held to be the only dependents of the deceased.

20. Therefore, it is held that the present 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 Rs. 8,00,000/- (Rs. Eight Lakh only) as compensation alongwith interest @ 9% from the date of incident till the date of judgment, on account of death of the deceased in an untoward incident, as prescribed under part 1 of the schedule apprehended to rule 3 (3) of the Railway Accident and Untoward Incident Compensation Rules, 1990 as amended on 22.12.2016 which has come into force with effect from 01.01.2017. Both these issues are decided accordingly. Hence, it is:

आदेश
ORDERED

21. The claim application of the applicants is allowed. The respondent Railway Administration is directed to pay Rs. 8,00,000/- (Rs. Eight Lakh only) alongwith interest @ 9% from the date of incident till the date of this judgment to the applicants.
22. As regards disbursal of the amount of award, it may be seen that in **Geeta Devi vs. Union of India, Delhi High Court** had observed as under:-

"5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990

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... by 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 of 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.

23. The Hon'ble High Court went on to lay down the mode of payment and in pursuance of the Order passed by the Delhi High Court, Government of India has issued a Notification on 3rd June, 2020 amending the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 2020, adding 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 deposit or other suitable mode as shall sub serve 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

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...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 06th 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."

24. It is considered appropriate to distribute and disburse the amount as under:

<i>Name of the applicants</i>	<i>Amount to be paid to the applicants immediately thru ECS by NEFT/ RTGS to the SB A/c</i>	<i>Amount to be invested in fixed deposit scheme of Nationalized Bank and the interest accrued thereon to be credited to SB Account of the applicant.</i>
<i>Anita Devi (mother of the deceased)</i>	<i>Rs 40,000/- (Rupees forty thousand Only) along with proportionately accumulated interest.</i>	<i>Rs. 3,60,000/- (Rupees three lakh sixty thousand only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to her SB Account.</i>
<i>Upendra Pandey (father of the deceased)</i>	<i>Rs 40,000/- (Rupees forty thousand Only) along with proportionately accumulated interest.</i>	<i>Rs. 3,60,000/- (Rupees three lakh sixty thousand only). This amount will be kept in the form of fixed deposit for a period of three years. However, the monthly interest accrued on this amount, shall be credited to his SB Account.</i>

25. The respondent Railway Administration is hereby directed to deposit the amount awarded with the Additional Registrar of this Tribunal within a period of 30 days from the date of receipt of this judgment failing which the applicants shall be entitled to receive interest @ 9%

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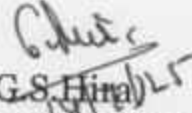
- amount with the Additional Registrar of this Tribunal.
26. The applicants are hereby directed to submit the details of their Aadhar linked Bank accounts of a Nationalized Bank mentioned in the schedule Annexure-I of the Railway Accidents and Untoward Incidents (Compen.) Rules, 1990, situated nearest to their place of residence to the Addl. Registrar of this Tribunal.
 27. The Bank shall not permit any joint name(s) to be added in the saving bank account or fixed deposit account of the applicants i.e., the Saving Bank Accounts of the applicants shall be an individual Saving Bank Account and not a joint account.
 28. The monthly interest be credited by Electronic Clearing System (ECS) in the said Saving Bank Account of the applicants.
 29. The maturity amount of the FDRs be credited by Electronic Clearing System (ECS) in the Saving Bank A/c of the applicants.
 30. No loan, advance, withdrawal, or pre-mature discharge be allowed on the fixed deposit without permission of the Tribunal.
 31. The concerned Bank shall not issue any cheque book and/or debit card to the applicants. However, in case the debit card and/or cheque book have already been issued, Bank shall cancel the same before the disbursement of award amount. The Bank shall freeze the account of the applicants so that no debit card be issued in respect of the account of the applicants from any other Branch of the Bank.
 32. The Bank shall make an endorsement on the passbook of the applicants to the effect that no cheque book and/or debit card have been issued or will be issued without the permission of the Tribunal and the applicants shall produce the passbooks with the necessary endorsement duly

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Tribunal. The Bank is further directed to permit the applicants to withdraw money from their Saving Bank A/cs by means of a withdrawal form only.

33. The Respondent Railway Administration is also directed to place on record the proof of deposit of the award amount with up-to-date interest, if any along with a calculation sheet and the same shall be filed with the Additional Registrar.
34. The claimants are directed to submit Form 15-G or Form 15 -H (for senior citizen) to the Presenting Officer of the Railways (as applicable under sub-section (2) of Section 19 of the Railway Claims Tribunal Act, 1987) so that no TDS is deducted.
35. In the facts and circumstances of the case, there is, however, no order as to costs.
36. Registry is directed to send a free certified copy of this judgment directly to the applicant No. 1 at his postal address mentioned in the claim application by Speed Post in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989. File be consigned to the record room.

Judgment pronounced, signed and sealed today i.e. 14.07.2025


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