

रेल दावा अधिकरण, नागपुर पीठ, नागपुर
BEFORE THE RAILWAY CLAIMS TRIBUNAL: NAGPUR BENCH, NAGPUR

QUORUM : SHRI SYED NISHAT ALI, HON'BLE MEMBER (TECHNICAL)/RCT/NGP
ACTING AS CIRCUIT BENCH OF PARENT BENCH I.E. RCT/PNBE BENCH

Case No.: OA (Ilu)/PNBE/447/2019

Date of Judgement - 18.08.2025

APPLICANTS :

1. Janardan Paswan aged about 62 years
Father of the deceased
2. Kanti Devi aged about 55 years
Mother of the deceased

Both R/o. Village/Mohalla : Tartar, P.S. : Ghoswari,
District – Patna, State – Bihar

V/s.

RESPONDENT : Union of India represented through
General Manager
E.C. Railway, Hajipur

VALUE OF CLAIM: Rs. 8,00,000/- + Interest

Applicant by Advocate Shri R.K. Patel (joined through hybrid mode)

Respondent by Advocate Shri Alok Kumar (joined through hybrid mode)

JUDGEMENT

1. As per order of Hon'ble Chairman/RCT/Delhi, this case was assigned to Nagpur Bench of RCT for hearing and disposal through hybrid mode. After hearings of arguments from both the sides through hybrid mode on 28.07.2025, the matter was reserved for order and is decided on merit of the case.

2. The applicants have filed a claim application seeking compensation for the unfortunate death of Gyani Kumar s/o Janardan Paswan, aged about 15 years which occurred allegedly in an untoward incident on 23.05.2017.

3. The applicants have contended in claim application under Item 6 (b) & 7 as under :



".....

6(b) On 23.05.2017 after Purchasing and having a valid 2nd Class Journey ticket from Rajendra Nagar (T) to Mokama Jn. the deceased Gyani Kumar boarded into train No.18621 DN, Patna Hatiya Patliputra Express train at Rajendra Nagar (T) for coming to Mokama Jn. The deceased went Patna to meet his uncle namely Doman Paswan and after meeting his Uncle he (deceased) was returning his Home on 23/05/2017. The deceased Purchased his valid ticket in the Presence of his Uncle Doman Paswan and also boarded in the said train in the presence Doman Paswan. There was heavy rush in the General Compartment and due to heavy rush the bona fide Passenger Gyani Kumar was standing near the gate inside the Compartment. The Passengers were jostling one another for space near the gate of the Compartment. Due to heavy rush and intense Jostling amongst the Passengers near the gate of the Compartment the deceased accidentally fell down from the said running train at 1/2 K.M. east of Bakhtiyarpur Jn. between Pole No.497/38 and 497/36. As a result of which he (deceased) Sustained Serious injuries and died on the Spot.

The Dy. Station Superintendent, Bakhtiyarpur Jn. reported the Incident to G.R.P./R.F.F. Bakhtiyarpur On 23.05.2018 and on the basis of which Rail Police (G.R.P.) Bakhtiyarpur reached at the Place of Occurrence and found the dead body of the deceased lying near the Railway track. After getting information about the incident from Rail Police (G.R.P.) Bakhtiyarpur the brother of the deceased namely Pintu Paswan reached at the Place of Occurrence along with his family members and some villagers and identified the deceased as the brother Gyani Kumar. The Inquest Report was prepared by Rail Police in the presence of the family members of the deceased and thereafter dead body was sent for P.M. examination, Pintu Paswan (brother of the deceased) also given an application to Rail P.S. Bakhtiyarpur on 23.05.2017. The dead body of the deceased was handed over to his family members after Post Mortem for Cremation.

Rail P.S. Bakhtiyarpur investigated the matter and found the factum of Occurrence is true. The Rail P.S. Vakhtiyarpur Submitted final Report stating that the deceased Gyani Kumar accidentally fell down from the said running train no.18621 DN. Patliputra Express, sustained serious injuries and died on the Spot. The deceased was unmarried. The deceased died leaving behind his Parents only as his dependent The Place of Occurrence lies Under the Jurisdiction of E.C.R., Hajipur



7. The deceased was travelling with a valid ticket for Rajendra Nagar (T) to Mokama Jn., which has lost during the aforesaid untoward incident." (Reproduced as verbatim)

4. Upon receipt of notice the respondent Railway had contested the claim application by filing the written statement along with the statutory Report of DRM. The preliminary objections taken in the written statement as under.

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1. That the application filed by the applicant is not maintainable in law as well as on fact.

3. That the application is fit to be rejected merely on the ground that applicant has not filed in accordance with the provision laid down under Railway Act.

5. That the statement made in Para-6 of an application is a fabricated and concocted story made by the application in strongly denied and the applicant has to put on strict proof for the same. It is a case of trace passer/run over as because no journey ticket was recovered from the possession of the deceased Gyani Kumar as per inquest report, final report. There is no mention of ticket recovery from the deceased. The Memo of station master show as run over of a man aged about 15 years. So, deceased was not a bonafied passenger for the same. The Memo, inquest and in postmortem report death time 5 mention within 72 hours. In a recent judgment of the apex court in MA 212 of 2013, dated 11.12.2015 passed in Vijaya Devi Versus U.O.I./GM/ER Kolkata. If decease did not have ticket and died in untoward incident we arent inclined to interfere with the impugned order passed by Hon'ble High Court, Patna. Thus the SLP in accordingly dismissed.

6. That the statement made in Para-7 of an application is denied as the passenger was not a bonafide passenger. Thus the applicant has to put on strict proof for the same.

13. That the respondent carves leave to file additional written statement, if new fact came in light.

It is, therefore prayed that your honor may please to accept written statement of respondent and dismiss the claim application in the light of submission made above." (Reproduced as verbatim)

The conclusion drawn in Statutory Report of DRM is and under :

"जांच में पाये गये साक्ष्यों, गवाहों के बयान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतक ज्ञानी कुमार उम्र करीब 15 वर्ष पे० जनार्दन पासवान, सा० तारतर, बा. घोषवरी, जिला-पटना जो किसी ट्रेन से यात्रा नहीं कर रहा था और न ही उसके पास कोई रेल यात्रा टिकट पाया गया। घटित घटना का कोई प्रत्यक्षदर्शी गवाह नहीं है। मृतक की मृत्यु अनाधिकृत रूप से घटनास्थल पर ट्रक पार करने के क्रम में किसी चलती गाड़ी के चपेट में आने से 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।" (Reproduced as verbatim).

5. The following issues were framed on 23.03.2021 for adjudication :



1. क्या मृतक गाड़ी संख्या 18621 का एक सदभावी यात्री थी?
2. क्या मृतक की मृत्यु रेल अधिनियम 1989 की धारा 123 (c) (2) की परिधि के अंतर्गत अनपेक्षित घटना में हुई थी?
3. क्या आवेदक/आश्रितगण मृतक के आश्रित हैं?
4. क्या आवेदक/आश्रितगण प्रतिकर की धनराशि प्राप्त करने के अधिकारी हैं और यदि हाँ तो कितना?

6. To prove their case, the applicant No.1 Janardan Paswan s/o Amar Nath Paswan was examined as witness and affirmed an affidavit. Shri Doman Paswan has also stepped into the witness box and filed his affidavit.

It is deposed by Janardan Paswan s/o Amar Nath Paswan during his cross-examination on 12.09.2024 that :

आज मैं तारतर से गवाही देने के लिए आया हूँ।

जिस केस में मैं गवाही देने आया हूँ उस केस का आवेदक मैं हूँ।

जिस केस में मैं गवाही देने आया हूँ उस केस का नम्बर मुझे पता नहीं है।

केस करने से हमको आठ लाख रुपया मिलेगा।

घटना 23.05.2017 की है।

केस नम्बर मुझे याद नहीं है, लेकिन घटना की तारीख याद है।

घटना के दिन मैं गुजरात में था।

घटना की व्यक्तिगत तौर पर मुझे कोई जानकारी नहीं है, घटना के बारे में जो लोगों ने बताया है उसी से मुझे जानकारी हुई है।

गुजरात में मैं मजदूरी करता हूँ।

मेरे कुल पांच बच्चे थे जिनमें दो पुत्र तथा तीन पुत्रियां थी, एक पुत्र जानी कुमार जो अविवाहित था, जिसकी मृत्यु दुर्घटना में हो गया है, शेष दूसरा पुत्र पिन्दु पासवान मेरे साथ रहता है जो विवाहित है। तीन पुत्रियाँ हैं। उषा देवी, सबिना देवी और सीता देवी सभी विवाहित हैं।

मेरी पत्नी की मृत्यु इस दुर्घटना के बाद पुत्र शोक में हो गयी है।

मृतक मेरा छोटा पुत्र था।

मेरा बेटा मृतक जानी कुमार नौवीं क्लास में पढ़ाई करता था।

घटना के तीसरा दिन मैं गुजरात से लौटा था।

घटनास्थल से घर की दूरी करीब 10 कोस होगा।

यह कहना गलत है कि मेरा मृतक बेटा जानी ट्रेन व प्लेटफार्म पर अंडर के रूप में सामान बेचता था।

मैं अपने पुत्र को टिकट कटाते, ट्रेन पर चढ़ते या ट्रेन से गिरते हुए अपनी आंखों से नहीं देखा था। प्रस्तुत दावा के अलावा मुआवजा के वास्ते किसी अन्य न्यायालय में मुकदमा नहीं किया

यह कहना गलत है कि मेरा मृतक पुत्र अवैध रूप से ट्रेन ट्रैक बख्तियारपुर स्टेशन पर एक प्लेटफार्म से दूसरे प्लेटफार्म पर रेलवे लाईन क्रॉस करते हुए अज्ञात ट्रेन से दुर्घटनाग्रस्त हो गये हो।

यह कहना गलत है कि मैं गलत तथ्यों के आधार पर कथित घटना बताकर रेलवे से दावा लेने के लिए गलत आवेदन किया है। यह कहना गलत है कि मेरा पुत्र टिकट लेकर यात्रा न कर रहा हो, स्वयं कहा कि उसका यात्रा टिकट खो गया है, यह बात मेरा दूसरा बेटा पिन्दु ने बताया है, उसी आधार पर मैं यह बात बता रहा हूँ। (Reproduced as verbatim)

It is affirmed by Janardan Paswan s/o Amar Nath Paswan in his affidavit that :

".....

1. यह कि मैं इस केस में आवेदक हूँ और मृतक ज्ञानी कुमार मेरा अविवाहित पुत्र था।
2. यह कि मेरा पुत्र दिनांक 22.05.2017 को सुबह में अपना चचेरा चाचा डोमन पासवान, पिता स्व० बालेश्वर पासवान जो पटना के बहादुरपुर मुहल्ला के झोपड़पट्टी में रहते हैं उनसे मिलने गया था।
3. यह कि मुलाकात बाद दिनांक- 23.05.2017 को अपना घर वापस आने हेतु मेरा पुत्र राजेन्द्र नगर (ट०) स्टेशन आया जिसे छोड़ने मेरा चचेरा भाई डोमन पासवान भी साथ राजेन्द्र नगर (ट०) आया और मेरा पुत्र चाचा डोमन पासवान के समक्ष राजेन्द्र नगर (ट०) स्टेशन से मोकामा स्टेशन साधारण दर्जे का वैद्य रेलवे यात्रा टिकट लेकर पटना हटिया पाटलिपुत्रा एक्सप्रेस ट्रेन के साधारण डब्बा में मोकामा स्टेशन आने के लिए राजेन्द्र नगर (ट०) स्टेशन पर सवार हुआ था जिसकी सूचना डोमन पासवान मेरा मुझे पिंदू पासवान को दिए थे।
4. यह कि उक्त ट्रेन को सच्चा में यात्रियों की काफी भीड़ थी जिसके कारण मेरा पुत्र ट्रेन में दरवाजे के पास ही अन्दर खड़ा था।
5. यह कि यात्रा के क्रम में मेरा पुत्र ज्ञानी कुमार बख्तियारपुर जं० से आधा कि० मी० पूरब अचानक चलती ट्रेन से नीचे गिर गया जिसके कारण घटना स्थल पर ही मृत्यु हो गई।
6. यह कि घटना की सूचना मेरे पुत्र के पास से निकले पुर्जा में लिखा मोबाईल नम्बर के माध्यम से रेल थाना बख्तियारपुर के पुलिस से मेरा पुत्र पिन्दु पासवान को मिला था और पिन्दु पासवान घटना की सूचना मुझे दिया था।
7. यह कि इस घटना की सूचना पाकर मेरे परिवार एवं ग्रामीण लोग घटना स्थल पहुँचे जहाँ मेरा पुत्र ज्ञानी कुमार को मृत हालत में पाए।
8. यह कि रेल थाना बख्तियारपुर के पुलिस मेरे पुत्र के शव के संबंध में सभी कागजात तैयार कर शव को पोस्टमार्टम हेतु अनुमंडलीय अस्पताल बाद भेजे।
9. यह कि पोस्टमार्टम के बाद मेरे के शव को अंतिम दाह संस्कार हेतु मेरे परिवार के लोग पुलिस से प्राप्त किये थे।
10. यह कि इस घटना के संबंध में मेरा पुत्र पिन्दु पासवान रेल थाना बख्तियारपुर को एक लिखित आवेदन दिए थे जिसके आधार पर रेल थाना बख्तियारपुर यू० डी० कांड संख्या-19/17 दिनांक 23.05.17 अंकित है।



11. यह कि मेरे पुत्र के पास राजेन्द्र नगर (ट०) से मौकामा जं० का वैद्य रेलवे यात्रा टिकट एवं रुपया पैसा था जो घटना काल में खो गया।

12. यह कि मेरा ज्ञानी कुमार की मृत्यु दिनांक- 23.05.2017 को राजेन्द्र नगर (ट०) से मौकामा स्टेशन पटना हटिया पाटलीपुत्रा एक्सप्रेस ट्रेन से यात्रा के क्रम में बख्तियारपुर स्टेशन से आधा कि० मी० पूरब चलती ट्रेन से गिरकर कटने के कारण हुई है।

13. यह कि मेरी पत्नी कान्ती देवी की मृत्यु दिनांक 09.08.2020 को हो गई है।

14. यह कि इस कांड में जांचोपरांत अनुसंधानकर्ता द्वारा अंतिम प्रदिवेदन समर्पित किया गया है जिसमें मृतक ज्ञानी कुमार की मृत्यु दिनांक 23.05.2017 को पटना हटिया पाटलीपुत्रा एक्सप्रेस ट्रेन से राजेन्द्र नगर (ट०) से मौकामा स्टेशन तक यात्रा के क्रम में बख्तियारपुर जं० से आधा कि० मी० पूरब चलती ट्रेन से गिरकर कटने से मृत्यु होना पाया गया है जो सत्य एवं सही है। (Reproduced as verbatim).

It is deposed by Shri Doman Paswan during his cross-examination on 12.09.2024 as under :

".....
मेरा गांव तार तर है। मैं वर्तमान में बहादुर पुर में रहता हूं और मजदूरी करता हूं। मृतक भतीजे का नाम ज्ञानी कुमार है जिसके पक्ष में मैं आज गवाही देने आया हूं। आज शपथ-पत्र में क्या लिखा है इसकी जानकारी मुझे है। घटना 23.05.2017 की है। मैं टिकट का साक्षी हूं। टिकट का मूल्य 45 रुपये का था। टिकट राजेन्द्र नगर से साढ़े 3 बजे शाम को कटायी थी। टिकट प्लेटफार्म नं 4 पर स्थित काउंटर नं. 2 से खरीदा था। घटना के दिन मृतक पाटलीपुत्रा एक्सप्रेस से यात्रा कर रहा था। गाड़ी लगभग पौन 4 बजे खुली थी घटना के दिन मैं प्लेटफार्म टिकट भी लिया था। घटना की सूचना मुझे 6-7 बजे मिल गयी थी। घटना के अगले दिन मैं शवगृह गया था। मैंने मृतक का शरीर देखा था उसका शरीर पेट से दो भागों में कटा हुआ था। घटना बख्तियारपुर से आगे की है। मैं घटनास्थल पर नहीं गया था। मैं अपने ग्रामीण राम उचित पासवान को जानता हूं वे मेरे भाई लगते हैं। ऐसा नहीं है कि मैं आज अपने रिश्तेदार को दावा राशि दिलाने के लिए झूठी गवाही देने के लिए आया हूं। (Reproduced as verbatim)

It is affirmed by Shri Doman Paswan s/o Late Baleshwar Paswan in his affidavit as under :

".....

1 यह कि मैं इस केस में टिकट का साक्ष्य हूं और ज्ञानी कुमार मेरा चचेरा भतीजा था।

2. यह कि ज्ञानी कुमार दिनांक 22/05/2017 को मेरे यहाँ बहादुरपुर मुहल्ला पटना में मुझसे मिलने हेतु आया था।

3. यह कि मुलाकात बाद दिनांक 23/05/2017 को ज्ञानी कुमार अपना घर वापस जाने हेतु राजेन्द्र नगर टर्मिनल से मौकामा स्टेशन का साधारण दर्ज का वैद्य रेलवे यात्रा टिकट लेकर पटना हटिया पाटलीपुत्रा

एक्सप्रेस ट्रेन के साधारण डब्बा में मोकामा स्टेशन जाने के लिए राजेन्द्र नगर (टर्मिनल) स्टेशन पर सवार हुआ था, जिसकी सूचना मैं भतीजा पिन्दु पासवान को दिये थे।

4. यह कि उक्त ट्रेन के डब्बा में यात्रियों की काफी भीड़ थी जिसके कारण जानी कुमार ट्रेन में दरवाजे के पास ही अन्दर खड़ा था।

5. यह कि इस घटना की सूचना मृतक के भाई पिन्दु पासवान से मुझे मिली थी।

6. यह कि घटना की सूचना पाकर मैं दिनांक 24/5/17 को सुबह में पोस्टमार्टम घर बाढ़ गया था।

7. यह कि जानी कुमार के पास राजेन्द्र नगर (टर्मिनल) से मोकामा जं० का वैद्य रेलवे यात्रा टिकट एवं रुपया पैसा था, जो घटनाकाल में खो गया।

8. यह कि जानी कुमार का मृत्यु दिनांक 23/05/2017 को राजेन्द्र नगर (टर्मिनल) से मोकामा स्टेशन पटना हटिया पाटलीपुत्रा एक्सप्रेस ट्रेन से यात्रा के क्रम में वलितयारपुर से आधा कि० मी० पूरब चलती ट्रेन से गिरकर कटने से हुई है जो सत्य एवं सही है।” (Reproduced as verbatim).

7. Heard both the counsels and my findings are as follows.

Findings with reasons

Issues No. 1 & 2:

8. These two issues are interlinked and hence taken up together. The applicants have contended in claim application that on 23.05.2017 after Purchasing 2nd Class Journey ticket from Rajendra Nagar (T) to Mokama Jn. the deceased Gyani Kumar boarded into train No.18621 DN, Patna Hatiya Patliputra Express train at Rajendra Nagar (T) for coming to Mokama Jn. The deceased went to Patna to meet his uncle namely Doman Paswan and after meeting his Uncle he (deceased) was returning his Home on 23/05/2017. The deceased purchased his valid ticket in the presence of his Uncle Doman Paswan and also boarded in the said train in the presence of Doman Paswan. There was heavy rush in the General Compartment and due to heavy rush the bona fide Passenger Gyani Kumar was standing near the gate inside the Compartment. The Passengers were jostling one another for space near the gate of the Compartment. Due to heavy rush and intense Jostling amongst the Passengers near the gate of the Compartment the deceased accidentally fell down from the said running train at ½ K.M.



east of Bakhtiyarpur Jn. between Pole No.497/38 and 497/36. As a result, the deceased sustained serious injuries and died on the Spot. The deceased was travelling with valid railway ticket from Rajendra Nagar (T) to Mokama Jn. which was lost in accident. It is further contended that the deceased was having valid journey ticket and he was bona fide passenger and died in an untoward incident, hence the applicants are entitled for claim compensation.

8.1 The inquest proceedings in this case were started by GRP Bakhtiyarpur on receipt of Memo issued by Dy. Station Superintendent, Bakhtiyarpur on 23.05.2017 wherein it is informed that "18621 DN के गार्ड द्वारा सूचित किया गया कि KM 497/34 डाउन लाइन के पास एक किशोर उम्र लगभग 13-14 वर्ष लिंग - पुरुष 18621 DN से गिरकर कट गया है। शरीर कटी अवस्था में डाउन लाइन के पास है।" During the inquest proceedings, Panchayatnama was prepared by the investigating authority. No journey ticket recovered from the deceased. Only one chit having mobile no. was recovered from the deceased.

8.2 During argument, it is mentioned by the applicant counsel that the deceased had purchased the journey ticket in presence of his uncle namely Doman Paswan and boarded in the alleged train No.18621 DN, Patna Hatiya Patliputra Express in the presence of his uncle Doman Paswan. The journey ticket of the deceased was lost in the alleged incident. While concluding his arguments, Ld. Counsel contended that even otherwise also, burden lies heavily on the respondent-railway to prove that the deceased was not a bona fide passenger and as such a burden has not been discharged by the respondent-railway by adducing any evidence in this regard, the finding of deceased being a bona fide passenger may be recorded in his favour and the claim application deserves to be allowed and the applicants are entitled to compensation.

8.3 Per contra Learned counsel for the respondent-railway argued that no journey ticket has been seized or recovered during spot or inquest panchnama. There is no seizure memo and no journey ticket has been filed on record. The deceased was not having any railway journey ticket and he was not a bona fide passenger of any train. As per Panchayatnama, only paper chit having mobile no. was recovered from the



deceased which creates doubt and suspicion. It is mentioned by the respondent counsel that if paper chit having mobile no. can be recovered from the deceased, then there was no reason why the journey ticket could not have been recovered if the deceased was having the same and non-recovery of the railway ticket, in itself, goes to prove that the deceased was not having any journey ticket in her possession otherwise the same would have been recovered from the deceased.

8.4 The applicants have examined Janardan Paswan s/o Amar Nath Paswan. It is argued by the respondent counsel that Janardan Paswan s/o Amar Nath Paswan has no knowledge regarding the purchasing of journey ticket by the deceased. He was not accompanying with the deceased. He is not an eye-witness of purchasing of journey ticket by the deceased and so also traveling of the deceased and fallen down from the train. It is argued by the respondent counsel that the contention of the applicant that the deceased was travelling in the train with journey ticket is totally false and concocted story and without any cogent affidavit or circumstances. It is mentioned by the respondent counsel that non-recovery of the railway ticket, in itself, goes to prove that the deceased was not having any journey ticket in his possession otherwise the same would have been recovered from the deceased. The applicants have also examined Shri Doman Paswan s/o Late Baleshwar Paswan and mentioned that in his presence, the deceased purchased the journey ticket and boarded in the alleged train. It is deposed by Shri Doman Paswan in his cross-examination that "घटना 23.05.2017 की है। मैं टिकट का साक्षी हूँ। टिकट का मूल्य 45 रुपये का था। टिकट राजेन्द्र नगर से साढ़े 3 बजे शाम को कटायी था। टिकट प्लेटफार्म नं 4 पर स्थित काउंटर नं. 2 से खरीदा था।" (Reproduced as verbatim). It is also deposed by him in his affidavit that "दिनांक 23/05/2017 को जानी कुमार अपना घर वापस जाने हेतु राजेन्द्र नगर टर्मिनल से मोकामा स्टेशन का साधारण दर्जे का वैध रेलवे यात्रा टिकट लेकर पटना हटिया पाटलीपुत्रा एक्सप्रेस ट्रेन के साधारण डब्बा में मोकामा स्टेशन जाने के लिए राजेन्द्र नगर (टर्मिनल) स्टेशन पर सवार हुआ था, जिसकी सूचना मैं भतीजा पिन्दु पासवान को दिये थे।" (Reproduced as verbatim).

8.5 On the witness of Shri Doman Paswan s/o Late Baleshwar Paswan, it is argued by the respondent counsel that he was not an eye-witness of the incident and he has no knowledge regarding the incident. No statement has been given by him to any of the

police or railway authorities that in presence of him, the deceased purchased the journey ticket and boarded the train. He has directly approached to the court for his witness to prove that the deceased purchased the journey ticket and he was bonafide passenger of the alleged train. The testimony of Shri Doman Paswan s/o Late Baleshwar Paswan is not reliable and he is a planted and false witness to get the compensation by strategizing afterthoughts. The above averments of the applicant is an afterthought. No journey ticket was recovered from the deceased only one paper chit having mobile no. was recovered from the deceased which creates doubt and suspicion. It is mentioned in DRM Report that on enquiry from the villagers, the fact has come to know that the deceased was residing at Bakhtiyarpur and he was working as Vendor for his livelihood. Based on the pleading made by both the parties and the evidence on record, the train journey of the deceased cannot be established in the absence of a journey ticket. The applicant had failed to prove that on the relevant day the deceased having a valid ticket and traveling as a bonafide passenger because till date they had not produced any documentary evidence i.e. journey ticket to establish his bonafide. Taking all the above facts together, it becomes clear that the witness of Shri Doman Paswan s/o Late Baleshwar Paswan is not reliable and trustworthy. He is a planted witness to prove that the deceased purchased the journey ticket and he was a bona fide passenger of train as an afterthought. DRM's Statutory Report also concludes that "जांच में पाये गये साक्ष्यों, गवाहों के बयान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतक ज्ञानी कुमार उम्र करीब 15 वर्ष पे० जनार्दन पासवान, सा० तारतर, था. घोषवरी, जिला-पटना जो किसी ट्रेन से यात्रा नहीं कर रहा था और न ही उसके पास कोई रेल यात्रा टिकट पाया गया। घटित घटना का कोई प्रत्यक्षदर्शी गवाह नहीं है। मृतक की मृत्यु अनाधिकृत रूप से घटनास्थल पर ट्रक पार करने के क्रम में किसी चलती गाड़ी के चपेट में आने से हुई है।....." (Reproduced as verbatim).

8.6 On the basis of above facts, it is argued by the respondent counsel that the averments of applicants that the deceased purchased the journey ticket and he was travelling in a train as a bona fide passenger is totally false and concocted story. The initial burden to prove that the deceased purchased the journey ticket and he was a bona fide passenger is not discharged by the applicants. No journey ticket was recovered from the deceased during panchayatnama. It is argued by the respondent counsel that in these circumstances deceased cannot be termed as bona fide



passenger of any train and the present case is liable to be dismissed as no corroborative evidence in this regard is there.

8.7 Section 124-A of The Railways Act, 1989 (for short, 'the Act') entitles a 'passenger' to claim compensation, who has been injured or the dependents of the deceased, who has been killed in an untoward incident as defined under Section 123 (c) of the Act *ibid*. The word 'passenger' has been defined under Section 2(29) of the Act as a person travelling with a valid pass or ticket. As per Section 124 (A) "passenger" includes – (i) a railway servant on duty; and (ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident. It is only when the fact of the injured or the deceased being a bona fide passenger of the train is established, the question of payment of compensation arises in case the incident is held to be an untoward incident. Therefore, if a person is travelling with a valid ticket, only then he/she is a bona fide passenger of the train.

8.8 I have gone through the pleadings, document and evidences available on record. I have also considered the arguments advanced by both the parties and documents available on record. Admittedly no journey ticket was recovered from the deceased at the time of personal search of the deceased and preparing the police documents. The witness of Shri Doman Paswan s/o Late Baleshwar Paswan is not reliable and the story that the deceased purchased the journey ticket and boarding the train in presence of him is false and concocted one. The initial burden to prove that the deceased was a bona fide passenger is not discharged by the applicant. Applicant failed to prove that the deceased was a bona fide passenger as nothing was recovered from her including journey ticket.

8.9 It is also held in case of Union of India V/s Rina Devi (CA No.4945 of 2018 arising out of SLP (C) No.10223) 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."* The facts of the case discussed above indicate that the deceased was not a bona fide passenger of any train. No journey ticket was recovered from the deceased. I find momentum and force in the

contention of the respondent counsel that the deceased was not a bona fide passenger as he had no valid journey ticket at the time of occurrence and also there are no reasons to accept it otherwise. Therefore, it is held that the deceased was not having any valid railway journey ticket and as such, he was not a bona fide passenger of any train.

9.1 So far as the manner and circumstances leading to the death of the deceased is concerned, averment of the applicants that on 23.05.2017, the deceased was travelling with valid second class journey ticket from Rajendra Nagar (T) to Mokama Jn. by Train No. 18621 DN, Patna-Hatia Patliputra express and fell down from the train and died is totally false and concocted story. The witnesses examined and produced by the applicants are not reliable and trustworthy. Nobody had seen him falling from any train. There is no eye-witness to the incident. During the course of inquest proceedings, no valid and relevant journey ticket was found from the deceased and there is no evidence to say that the deceased fallen down from the train and died on the spot. The deceased was not involved in any untoward incident.

9.2 It is also argued by the respondent counsel that the opinion of police authorities in police documents that the deceased died due to fell down from train is only their view keeping in mind the circumstances of incident spot and their opinion is based only on surmise and presumption as no one has seen the deceased falling from the train. The panchas who have signed the Panchayatnama are also not an eye-witnesses to the incident and they are relatives of the deceased. The brother of the deceased has signed the Panchayatnama as a witness which also creates doubt and suspicion. The insignificant opinion simply diverts the focus of the discussion from the actual attending circumstances and conditions that might have prevailed or existed at the time of the alleged incident. The details mentioned in the panchayatnama is also based on the application of the brother of the deceased namely Pintu Paswan who has made an application to the GRP, Bakhtiyarpur. On the basis of application, the investigating authorities has prepared the panchayatnama. It is also mentioned in the first information of unnatural or sudden death report (Annexure-3/Page No.16) that "गद्दी का लिखित आवेदन जो इस यू.डी. कांड का मूल आधार है।" "अभ्युक्ति - गद्दी के लिखित आवेदन के आधार पर यू.डी. कांड सं.19/17



दि. 23.05.17 दर्ज किया।" It is also argued by the respondent counsel that it is mentioned in the memo issued by the Dy. Station Manager, Bakhtiyarpur on 23.05.2017 that "18621 DN के गार्ड द्वारा सूचित किया गया कि KM 497/34 डाउन लाइन के पास एक किशोर उम्र लगभग 13-14 वर्ष लिंग - पुरुष 18621 DN से गिरकर कट गया है। शरीर कटी अवस्था में डाउन लाइन के पास है।" But there is no such entry in the Station Diary of Bakhtiyarpur that the Guard of alleged Train No.18621 has informed to the Dy. Station Superintendent that the deceased fell down from his train. Instead of that, it is mentioned in Station Diary that "15547 Up एक व्यक्ति उम्र 25 वर्ष लगभग गिर कर Up Main Line में घायल अवस्था में है। यह सूचना यात्रियों द्वारा प्राप्त हुआ।". Dy. Station Manager of Bakhtiyarpur Railway Station is not an eye witness of the incident. It is also pointed out by the respondent counsel that only paper chit having mobile No. was found with the deceased, this fact also creates doubt and suspicion. Now, in the absence of any substantive fact, it can be concluded that it is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railways Act, 1989. Hence Railway administration is not liable to pay any compensation to the applicant.

9.3 Respondent counsel also pointed out that the body of the deceased was cut into pieces. It is mentioned in From A Details of Spot and Person that "Condition of Body - Two parts from chest and both leg totally cut down from thigh." It is also mentioned in the Post Mortem Report that 'body cut in two parts from chest'. and it is opined in Post Mortem Report that the cause of death: *Cardiorespiratory arrest due to hemorrhagic shock due to Rail traffic accident*'. The counsel for the respondent railway argued that this is indicative more of a case of self-inflicted injury than the case of a fall from the train. The nature of injuries sustained by the deceased and the manner in which two pieces of the dead body of the deceased were lying are not suggestive of the fact that he would have fallen down from the stationary train. The deceased might have been cut down from the train while he was crossing the railway track. It is also mentioned in DRM Report that on enquiry from the villagers, the fact has come to know that the deceased was residing at Bakhtiyarpur and he was working as Vendor for his livelihood. No journey ticket was recovered from the deceased only one paper chit having mobile no. was recovered from the deceased which creates doubt and suspicion. The testimony of Shri Doman Paswan

s/o Late Baleshwar Paswan is not reliable and he is a planted and false witness to get the compensation by strategizing afterthoughts.

9.4 It is argued by the respondent counsel that the story narrated by the applicants is not convincing, contradictory, fabricated, concocted and bogus to claim the false compensation. The deceased was not involved in any untoward incident and he was not a bona fide passenger of any train in fact the deceased died while he was crossing the railway track. It is also opined in DRM Report that "जांच में पाये गये साक्ष्यों, गवाहों के बयान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतक ज्ञानी कुमार उम्र करीब 15 वर्ष पे० जनार्दन पासवान, सा० तारतर, या. घोषवरी, जिला-पटना जो किसी ट्रेन से यात्रा नहीं कर रहा था और न ही उसके पास कोई रेल यात्रा टिकट पाया गया। घटित घटना का कोई प्रत्यक्षदर्शी गवाह नहीं है। मृतक की मृत्यु अनाधिकृत रूप से घटनास्थल पर ट्रैक पार करने के क्रम में किसी चलती गाड़ी के चपेट में आने से 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।" (Reproduced as verbatim).

9.5 In the case of Union of India V/s Rina Devi (CA No.4945 of 2018 arising out of SLP (C) No.10223) it is held that 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. 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."

As per the judgement of the Hon'ble Apex Court in Rina Devi (Supra) the initial onus lies with the applicants to show that there is a death due to untoward incident of a bona fide passenger by filing of the affidavit and depending on the facts of a particular case it can be shifted on the Railways. In the present case the applicants have failed to prove that the deceased purchased the railway journey ticket and he was travelling in the train and died due to an untoward incident as per section 123 (c) (2) of the Railway Act and not able to discharge the initial onus that lies on them. The witness produced by the applicants are not trustworthy as discussed in previous paras. Although it's a beneficial legislation but it cannot be stretch too far to accommodate a clear case of not qualifying as an untoward incident as defined under Sec. 123 (c) (2) of Railway Act,

1989. It is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railway Act, 1989. It is argued by the respondent counsel that all the above facts clearly indicate that the deceased was not a bona fide passenger and the instant case is not the case of falling down from the train. It is not a case of untoward incident of accidental fall from train as defined in Section 123 (c) (2) of Railway Act, 1989. Hence Railway administration is not liable to pay any compensation to the applicants.

9.6 A reading of the aforesaid paras show that the incident in question is not an untoward incident. The applicants have not been able to prove that the deceased was travelling in the alleged train with valid journey ticket and he had fallen down from any train carrying passengers. Witness Janardan Paswan s/o Amar Nath Paswan was not accompanying the deceased and he does not know anything regarding the incident. He is not an eye-witness to purchasing the ticket by the deceased or of the incidence of falling down from the alleged train. The witness of Shri Doman Paswan s/o Late Baleshwar Paswan is not reliable and trustworthy and he is a planted witness. Witness may lie but the records cannot. I cannot agree with the pleadings of the applicants on this point, since they have failed to prove by bringing any evidence that the deceased had boarded any train with valid journey ticket and met with an accident as a result of his alleged fall from the train. The fact that Gyani Kumar s/o Janardan Paswan (deceased) died, on account of an untoward incident, must be proved by the applicants in order to claim compensation under Section 124-A of the Railways Act. Respondent counsel has much force and momentum in argument that the deceased was not a bona fide passenger and he was not involved in any untoward incident. It can, therefore, be concluded that the deceased was neither a bona fide passenger nor involved in an untoward incident as defined in Section 123 (c) (2) of the Railways Act. These issues, therefore, are decided accordingly against the applicants and in favour of the Respondents.

ISSUE No.3

10. In view of the findings on issue No.1 and 2, discussion on this issue would be redundant exercise.



ISSUE No. 4 (Relief)

11. In my considered view and opinion, the findings on issue No.1 & 2 go against the applicants and the applicants are not entitled to any compensation and this issue is answered accordingly.

ORDER

12. The claim application is dismissed with no order as to costs.

13. File to be sent to the parent Bench i.e. RCT/PNBE Bench.



(Syed Nishat Ali)
Member (Technical)/RCT/NGP
Acting as Circuit Bench of parent Bench
i.e. RCT/PNBE Bench

Nagpur

Date : 18.08.2025