



रेल दावा न्यायाधिकरण, पटना
RAILWAY CLAIMS TRIBUNAL, PATNA

No. OA(Ilu)/PNBE/490/2019

CORAM: Shri Gyan Prakash Tiwari, Hon'ble Member (Judicial), RCT Ranchi at RCT Patna
Shri Shiv Kumar Prasad, Hon'ble Member (Technical)

Date of Registration: 04.12.2019

Date of Argument: 09.06.2025

Date of decision: 11.06.2025

1. Ajay Kumar

2. Mamta Devi

Both R/o VIII Mohalla: Sevnar Sikaria,

P.O.: Sevnar, P.S.: Jehanabad

Dist: Jehanabad,

Bihar. 804454

... Applicants

Versus

Union of India,

Through the General Manager,

E.C. Railway, Hajipur

... Respondent

Claim for ₹ 8,00,000/- with interest.

Appearances:

Shri Ravi Ranjan Kumar

Ld. counsel for the applicant

Shri Mithilesh Kumar Sinha

Ld. counsel for the respondent

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JUDGEMENT

1. This claim application (OA) has been filed by Shri Ajay Kumar and Smt Mamta Devi before this Tribunal, under Section 16 of the Railways Claims Tribunal Act, 1987 read with section 123 (c) (2) and section 124 A of the Railway Act, 1989 for the payment of compensation of ₹8,00,000/- (Rupees Eight Lakh only) along with interest on account of death of their unmarried son Ujjwal Kumar (herein after referred as the deceased) allegedly died in an untoward incident on 30.03.2019. (During trial date of incident was amended as 29.03.2019 on the application of claimants).

2. **The brief facts of the case:**

As per claim application (O.A.) the deceased Ujjwal Kumar was travelling on 29.03.2019 (amended) after purchasing a 2nd class ordinary ticket bearing no. 11807 from Neema Halt to Bela and boarded some Patna- Gaya passenger train and deceased was going to Bela to meet his father's sister. There was heavy rush in the said train. The deceased boarded the train anyhow. Due to over-crowd, the deceased could not get the seat, therefore, he was compelled to stand near the gate inside the bogie of the said train. When the train was running between Nadaul and Jehanabad, the deceased accidentally fell from the running train between pole no. 38/03 and 38/01 in UP line, near Seonan Halt due to sudden jerk and intense jostling amongst the passengers as a result, the deceased sustained serious injuries and died on the spot. The villagers who were near the place of the incident, informed Ajay Kumar (father of the deceased) about the incident. After getting the information the father of the deceased reached Rail Police, Jehanabad where he identified his son Ujjwal Kumar. A U.D. case no. 14/19 dated 30.03.2019 was registered at Rail P.S. Jehanabad. As per applicants deceased was a bona fide passenger at the time of incident and his death is covered under the purview of an untoward incident.

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3. The learned counsel for the respondent contested the OA and filed a written statement wherein it is stated that applicant had no cause of action and right to sue in the facts and circumstances of the case. It is not clear by the documents filed by the applicant that under what circumstances the deceased fell from a running train. The documents file by the applicant i.e. station master memo, inquest report and post- mortem report as well as DRM's report suggest that it is a case of run over while crossing the railway track or otherwise. The deceased was resident of the nearby place of incident and RPF enquiry revealed that at the place of incident people used to trespass the railway track illegally. The timing of incident also negates the story of journey by train. There is no eyewitness of the incident. The witnesses of the inquest report were not an independent eye witness of the incident. The date of journey mentioned in para-6 of the OA and date of ticket are contradictory. Under no circumstances respondent railway could be saddled with any liability and the applicant was not entitled to get any compensation in the instant case. Therefore, the claim petition is liable to be dismissed.
4. Based on rival pleadings the Tribunal framed the following issues for adjudication on 22.06.2021:
- Whether deceased was a bona fide passenger of some unknown train?*
 - Whether the death of the deceased was caused in an untoward incident as defined under section 123 (c) (2) of the Railways Act, 1989?*
 - Whether applicant/ dependents are the dependents of the deceased?*
 - Whether the applicant/ dependents are entitled to received compensation, if yest, then how much?*
5. In support of the claim, the applicants had filed the copies of the following documents along with the claim application:

Sl.	Document	Exhibit
1.	Ticket	A-1

Sr.	Document	Exhibit
2.	Certified copy of station memo	A-2
3.	Certified copy inquest report	A-3
4.	Certified copy of dead body challan	A-4
5.	Certified copy of application	A-5
6.	Certified copy of F.I.R.	A-6
7.	Photo copy of post mortem report	A-7
8.	Certified copy final report	A-8
9.	Photo copy of dependency certificate	A-9
10.	Photo copy of Aadhaar card	A-10

6. The applicant, Ajay Kumar appeared as AW-1, filed his affidavit as examination of chief, and cross-examined by Shri Mithilesh Kumar Sinha, Railway advocate on 04.10.2023.
7. The Respondent filed the DRM's Report along with supporting documents, collectively marked as Ex.R1, but not adduce any oral evidence.

कारणों सहित निर्णय

DECISION WITH REASONS

8. Heard the arguments of both sides counsel and perused the evidence available on record. Our findings on the issues are as under:

Issue Nos. 1 & 2: (Bona fide passenger status and untoward incident)

Since these two issues are interlinked, they are being taken up together for sake of convenience:

9. The learned counsel for the applicants submitted that on 29.03.2019, the deceased Ujjwal Kumar purchased a 2nd class ordinary journey ticket bearing no. 11807 from Neema Halt to Bela and boarded Patna- Gaya passenger train. The deceased was going to Bela to meet his father's sister. There was heavy rush in the said train. The deceased boarded the train somehow. Due to over-crowd, the deceased could not get the seat, therefore, he was compelled to stand near the gate inside the bogie of the said train. When the train was running between Nadaul and Jehanabad, the

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deceased accidentally fell from the running train between pole no. 38/03 and 38/01 in UP line, near Seonan Halt due to sudden jerk and intense jostling amongst the passengers, and as a result, the deceased sustained serious injuries and died on the spot. After getting information father of the deceased reached Rail Police, Jehanabad where he identified his son Ujjwal Kumar. As per applicant deceased was a bona fide passenger at the time of incident and his death is covered under purview of an untoward incident.

10. Per Contra, Respondent contended that the deceased was neither a *bona fide* passenger nor his death is covered under the purview of an untoward incident. The witnesses of the inquest report were not an eye witness of the alleged incident. The journey ticket mentioned in the inquest report appears to be a planted and afterthought ticket. The deceased was hit by some train while crossing the railway track illegally and died. Respondent pleaded that the applicants are not entitled to any compensation claimed for and prayed for dismissal of the claim application.

11. As is clear from the word and spirit of the law under section 123 (c) (2) of the Railways Act, 1989, an untoward incident can only apply to a passenger. A passenger is also defined in Section 2 (29) of the Act as follows:

2. Definitions- In this Act, unless the context otherwise requires,-

... (29) "passenger" means a person travelling with a valid pass or ticket;...

12. The inquest report was prepared on 30.03.2019 wherein column - 7 it is mentioned that, a recovery of journey ticket bearing no. 11807 from Nema Halt to Bela. The column 5 mention "शव का माथा घुराया हुआ अन्य ... में छोट एवं खरोच का निशान".

13. Ajay Kumar (father of the deceased) in his statement given before RPF (annexed with DRM's report) wherein it is stated:

"मैं अजय कुमार, पता-उपरोक्त बिना भय, लालच व दबाव के स्वेच्छा पूर्वक यह बयान करता हूँ कि मेरा पुत्र दिनांक 29.03.2019 को सुबह घर से यह कहकर निकला कि वह नीमा अपने

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बीमार फुआ को देखने के लिए जा रहा है और वहीं से बेला कालीपूजन कर सड़क मार्ग द्वारा मकरपुर फूफेरा भाई के घर जाने के लिए बोला था। दिनांक 30.03.2019 को आसपास के ग्रामीणों से सूचना मिली कि आपके बेटे की डेड बॉडी जी०आर०पी० जहानाबाद थाने के बाहर पहचान हेतु रखा हुआ है। उक्त सूचना पाकर मैं ग्रामीणों के साथ जी०आर०पी० जहानाबाद पहुँचा वहीं दिखाए गये फोटों एवं बनाए गए स्थान सदर अस्पताल जहानाबाद जाकर शव को देखकर मृतक का पहचान अपने बेटे उज्जवल कुमार उम्र-24 वर्ष के रूप में किया। मेरे पुत्र उज्जवल के पास से एक रेल यात्रा टिकट सं० 11807 निमा हॉल्ट से बेला लिखा मिला मेरे बेटे के मृत्यु यात्रा के क्रम में सवारी गाड़ी से गिरकर सर फटकर गंभीर जख्मी होने से हुआ है यही मेरा बयान है।"

14. Ld. Counsel for the respondent pleaded that, If a person left home in the morning to go to Bela from Nema Halt and the dead body found between Nema to Bela then there is a possibility that the said incident occurred in the day time. From the statement of Ajay Kumar (father of the deceased) given before RPF, the place of incident is 1- 1.5 Km away from the place of resident of the deceased. In this situation the finding of dead body in such a busy railway line at night around 1:15 AM raises suspicion. There is a possibility that the death of the deceased occurred in other place or due to other reason but the applicants are trying to show it a railway accident.
15. As per Ajay Kumar statement given before RPF attached with statutory DRM report, the deceased left home in the morning whereas in the record, the alleged incident had taken place in the night. Thus, there is no co-relation. Further, going to Fua place during midnight does not inspire confidence to the claim of the applicant.
16. The subject ticket to the Halt contractor was issued on 25.11.2018 and this is shown to be issued on 29.03.2019 as produced by the applicant, after a gap of about 125 days, which also creates suspicion and gives force to the argument of Ld. Counsel for the respondent that the ticket is planted.
17. The statement annexed in DRM's report was shown to Ajay Kumar (AW-2) in his cross-examination. He stated that "डी आर एम रिपोर्ट में संलग्न बयान आर-1 देख लिया है उसमें जो

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बयान है वह मेरे द्वारा लिखाया गया है, जिसपर मेरा हस्ताक्षर है।". The ticket recovered in inquest report is issued from Halt station is a general ticket. It appears that the said ticket is planted and afterthought ticket.

18. Ajay Kumar, AW-1 is an interested witness and he has not been the eye witness to the incident. Taking into account his contradictory version given in the claim application and his statement, no reliance can be placed upon his testimony. There is no evidence that the deceased has fallen down from the train and in the police final report also the same has not been clarified. Thus, the bona fide status of the deceased is not proved.
19. It is pertinent to mention here 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.]

20. The station memo issued by Dy. SM/JHD to GRP/RPF/JHD on 30.03.2019 mention:

"आपको सुचित किया जाता है कि EC PG के चालक द्वारा सूचना मिला है कि नदील और जहानाबाद के बीच अप मेन लाइन में 38/03 पर एक पूरा किसी गाड़ी से गिर कर कट कर मृत पड़ा हुआ है। EC PG का वाहन सं० 31449 है।

अतः श्रीमान से निवेदन है कि इसकी उचित व्यवस्था किया जाय।"

21. The final report submitted by Rail Thana Jehanabad concluded the following:

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"..... मृतक उज्ज्वल कुमार का मृत्यु सवारी गाड़ी से यात्रा के क्रम में गिरकर गम्भीर जख्मी होने से मृत्यु होना अंतिम प्रतिवेदन संख्या 14/19 दिनांक 01/4/19 समर्पित करता हूँ।"

The investigation officer without recording the statement of any eyewitness of the alleged incident concluded that in course of travelling, the deceased fell from passenger train. It is noteworthy that train name and number are unknown.

22. The Post Mortem examination, was conducted on 30.03.2019 at 09:00 AM. The contents of PM report as follows:

" External:

Rigor Mortis present

Half lacerated skull above the nasal bridge and lots of skull bone brain matter coming out from skull vault Eye- open.

Time since death - within 12 hours.

Cause of Death- Hypovolemia due to lots of blood, followed Cardio- Vascula Collapse due to Rail traffic accident.

Thus, the injuries mentioned in the post- mortem report and also in the inquest that head is crushed do not suggest accidental fall rather it establishes that the death occurred either due to hit by train or some road accident.

23. The DRM's report concluded:

"जांच में पाये गये साक्ष्यों, गवाहों के बयान तथा परिस्थितिजन्य साक्ष्यों के आधार पर यह तथ्य स्पष्ट होता है कि मृतक उज्ज्वल कुमार पे० अजय कुमार, सा०- सेवनन ओपी, जिला- जहानाबाद के पास एक रेल यात्रा टिकट सं० 11807, निमा हॉल्ट से बेला तक का पाया गया, जिसका सत्यापन कराने पर स्टेशन मास्टर 'नदवा' के द्वारा बताया गया कि निमा हॉल्ट से बेला का टिकट सं० 11800 से 11810 तक कुल 10 टिकट दिनांक 25.11.2018 को हॉल्ट को आपूर्ति किया गया था। 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।

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घटना रेल अधिनियम की धारा 123 की उप धारा (ग) में परिभाषित अनापेक्षित घटना में वर्णित परिस्थितियों में घटित नहीं हुई है। "

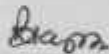
24. In fact, in FIR and post- mortem report the deceased was unknown whereas father of the deceased got information in the morning 7:30 hrs as he stated in his cross- examination. Post- mortem was started at 09:00 AM and it is quite suspicious that post- mortem report was also unknown.
25. We note that in the absence of the *bona fide* of the deceased as a passenger being established, and the facts established above the untoward incident did not occur in the meaning of section 123 (c) (2) of the Railways Act, 1989. The death was due to some reason other than accidental from the running train.
26. In view of the above discussion, we are of the view that the applicant bitterly failed to prove that the deceased was a *bona fide* passenger and met with an alleged untoward incident during his valid train journey in terms of Section 123(c)(2) of the Railways Act, 1989. Accordingly, the issue no. 01 & 02 are decided against the applicant.

Issue Nos. 3 & 4:

27. In the light of findings on the issues No. 1 & 2 above, wherein it is held that the deceased was not a *bona fide* passenger of the train in question nor met with the alleged untoward incident, any further discussion on the issue no. 3 & 4 of dependency and compensation will be a redundant exercise.

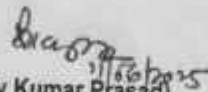
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28. That the applicant is not entitled for any compensation and the claim application of the applicant being devoid of merits is dismissed on contest with no order as to costs.



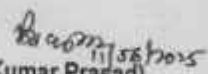


29. Copy of this order be supplied to both the parties free of costs, and the file, after its due completion, be consigned to the Record Room.


(Shiv Kumar Prasad)
Member (Technical)
RCT Patna
11.06.2025


(Gyan Prakash Tiwari)
Member (Judicial)
RCT Ranchi
At RCT Patna
11.06.2025

The Judgment has been signed and pronounced in the open court today i.e. on 11.06.2025


(Shiv Kumar Prasad)
Member (Technical)
RCT Patna
11.06.2025


(Gyan Prakash Tiwari)
Member (Judicial)
RCT Ranchi
At RCT Patna
11.06.2025