



रेल दावा न्यायाधिकरण, पटना

RAILWAY CLAIMS TRIBUNAL, PATNA

No. OA(IIu)/PNBE/494/2019

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

Shri Shiv Kumar Prasad, Hon'ble Member (Technical)

Date of Registration: 06.12.2019

Date of decision: 16.05.2025

Kaniya Devi

W/o Late Jhingur Manjhi

R/o Vill/ Moh: Parwaldih,

P.O.: Kariyadpur, P.S.: Fatehpur,

District- Gaya,

Bihar. 824232

... Applicant

Versus

Union of India,

Through the General Manager,

E.C. Railway, Hajipur

... Respondent

Claim for ₹ 8,00,000/- with interest.

Appearances:

Shri Pramod Kumar

Ld. counsel for the applicant

Shri Radhika Raman

Ld. counsel for the respondent

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[Signature]

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JUDGEMENT

BY SHRI RAM BABU SHARMA, MEMBER (JUDICIAL):

1. A claim application has been filed by Kaniya Devi before this Tribunal, under Section 16 of the Railways Claims Tribunal Act, 1987, for the payment of compensation of ₹8,00,000/- (Rupees Eight Lakh only) along with interest on account of death of Rabina Devi, allegedly in an untoward incident.
2. The brief facts of the case as stated by the applicant are that on 21.09.2018, the deceased **Dhanraj Manjhi** and his wife **Rabina Devi** was going to Tata. He purchased two journey ticket from Tankuppa to Tata Nagar and boarded train no. 13306 Dn (Gaya- Dhanbad Intercity Express). From Koderma they had to change the train to go to Tata Nagar. In course of journey Dhanraj Manjhi was falling from a moving train. In the meantime, Rabina Devi tried to save her husband but unfortunately, Rabina Devi and her husband (Dhanraj Manjhi) both fell from the said running train due to heavy jolt amongst the passengers and got injured and both died on the spot. A U.D. case no. 105/18 dated 22.09.2018 was registered at GRP, Gaya. The dead body was handed over to the family for the last rites. The journey ticket was lost in untoward incident.
3. The learned counsel for the respondent contested the OA and filed a written statement wherein it was stated that the para-6 of the claim application was false and fabricated. No ticket was found from the possession of the victim. Station memo was of unknown person. The deceased did not die in railway untoward incident. The applicant had not lodged separate FIR for the alleged loss which falsify it. The applicant was not entitled to get any compensation from railway administration. From the sequence of happenings as narrated by the applicant, it was not a case of untoward incident involving railway. It was a case of a person dying due to his own criminal act or otherwise. Therefore, dismissal of the case was prayed for.

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4. Based on rival pleadings the Tribunal framed the following issues for adjudication on 24.06.2021:
- Whether deceased was a bona fide passenger of train no. 13306?*
 - Whether death of the deceased is covered under section 123 (c) (2) of the Railway Act, 1989?*
 - Whether applicant/ dependents are dependents of the deceased?*
 - Whether applicant/ dependent(s) are entitled to receive compensation, if yes, to what extent?*
- 5 In support of the claim, the applicants had filed the copies of the following documents along with the claim application:

Sr.	Document	Exhibit
1.	Certified copy of station memo	A-1
2.	Certified copy of application	A-2
3.	Certified copy of FIR	A-3
4.	Certified copy of Inquest report	A-4
5.	Certified copy of post mortem report	A-5
6.	Certified copy of dead body receiving	A-6
7.	Certified copy final report	A-7
8.	Photo copy of dependency certificate	A-8
9.	Photo copy of Aadhaar card	A-9

- 6 The applicant, **Kaniya Devi** (AW-1) and **Baldev Manjhi** (AW-2) was cross-examined by Shri Radhika Raman, Railway advocate on 27.06.2023.
- 7 The Respondent filed the DRM's Report along with supporting documents, collectively marked as Ex.R1, but did not adduce any oral evidence.

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[Signature]

DECISION WITH REASONS

- 8 Heard the arguments of the both parties and perused the evidence on record. Our findings on the issues are as under:

Issue Nos. 1 & 2:

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

- 9 The learned counsel for the applicant submitted that on 21.09.2018, the deceased **Dhanraj Manjhi** and his wife **Rabina Devi** was going to Tata. He purchased two journey ticket from Tankuppa to Tata Nagar and boarded train no. 13306 Dn (Gaya- Dhanbad Intercity Express). From Koderma they had to change the train to go to Tata Nagar. In course of journey Dhanraj Manjhi was falling from a moving train. In the meantime, Rabina Devi tried to save her husband but unfortunately, Rabina Devi and her husband (Dhanraj Manjhi) both fell from the said running train due to heavy jolt amongst the passengers and got injured and both died on the spot. A U.D. case no. 105/18 dated 22.09.2018 was registered at GRP, Gaya. The dead body was handed over to the family for the last rites. The journey ticket was lost in untoward incident.
- 10 Learned counsel for the Respondent submitted that the deceased was not a *bona fide* passenger. No journey ticket was recovered from the possession of the deceased during preparation of the inquest report. There was no eye witness of the purchasing of the journey ticket. It was not an untoward incident. It was an untoward incident occurred. No eye witness of the alleged incident. From perusal of the station memo, it was evident that it was not a case of untoward incident. The train name and number were unknown. The applicant tried to include the train number in the claim application. Hence, Ld. Counsel for the Respondent submitted that the applicant was not entitled to any compensation claimed for and prayed for dismissal of the claim application.

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11 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.]

12 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 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;..."

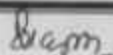
As such, in absence of a ticket a person travelling on a train would not be considered a passenger and thus not comes under the purview of S. 123 (c) (2).

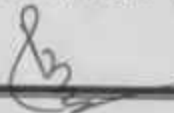
13 The station memo issued to GRP/ Sr. DMO, Gaya on 21.09.2018 mention:

"ऑन डिप्टी स्टेशन मास्टर टनकुप्पा आर.एस.सिंह. से प्राप्त सुचनानुसार एक अज्ञात पुरुष एवं एक अज्ञात महिला जिनका उम्र लगभग 30 वर्ष के पास है डेड अवस्था में DN/ML के बिच में KM संख्या 448/24 और 448/22 के बिच में पड़ा हुआ है।

इस सम्बन्ध में उचित कारवाई करे। "

14 The inquest report was prepared on 22.09.2018 wherein column 7 other than clothes there was no recovery of journey ticket. As per column- 9 " किसी ट्रेन से गीरने तथा गम्भीर रूप जख्मी होने से मृत्यु होना प्रतीत होता है। "





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

".....मृतिका रविना देवी एवं मृतक धनराज मांझी का मृत्यु गया धनबाद इन्टर सिटी एक्सप्रेस से यात्रा के क्रम में गिरने तथा जखमी होने से मृत्यु होना अंतिम प्रतिवेदन सं० 104/18 दि० 24.9.18 समर्पित करता है।"

16 The Post Mortem examination, was conducted on 22.09.2018 at 02:30 pm. The contents of PM report as follows:

" (A) Lacerated wound- left fronto parietal head (6 ½" 1 ½"x cranial cavity) with ... of contused and lacerated ... tissue and intra cranial hemorrhage.

(B) Abrasion (I) Right lateral forehead (2"x1") (II) Right scapular (1" x ½")

Opinion:

(1) All injuries are antemortem caused by hard and blunt forces/ substances/ surfaces.

(2) Death is due to cranio- cerebral injuries as noted above. May be consistent with as suggestion in police inquest report i.e. Rail Traffic injuries.

(3) Time since death- within 08 to 24 hrs (approx.) since P.M. examination time."

17 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."

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18 Kaniya Devi, AW-1 in para- 2 of her affidavit stated:

"यह कि मेरा लड़का टनकुप्पा रेलवे स्टेशन से टाटा जंक्शन तक का रेल टिकट खरीदकर यात्रा कर रहा था मैं अपने बेटे एवं बहु को ट्रेन चढ़ाने वास्ते टनकुप्पा तक गया था। मेरा लड़का दो टिकट खरीदा था जो मेरे बेटे के ही पास था। गाड़ी खुलने के बाद मैं अपने दूसरे बेटे के साथ वापस घर चली आई थी।"

19 Kaniya Devi, AW-1 in her cross- examination stated:

"धनराज मांझी और रबिना देवी मेरा बेटा पुतौह है । 21.09.2018 को मैं घर पर थी। मैं घटना होते हुए अपनी आंखों से नहीं देखा है। पुलिस में मेरा बयान हुआ था कि नहीं यह मुझे याद नहीं है। बालदेव मांझी मेरा बेटा लगता है। आज मैं गवाही देने के लिए बालदेव मांझी के साथ आयी हूं। मुझे दो बेटा है : एक बेटा का नाम संजीवन और दूसरा बेटा का नाम मानचंद है । मुझे कुल तीन बेटा है, एक बेटा का मृत्यु हो गया है। एक बेटा है जिसका नाम पिकी देवी है । बेटा मजदूरी करता है । यह बात सही है कि बालदेव मांझी ठेका पर लेकर भेजता है । पुलिस ने बयान को मेरे सामने पढ़कर सुनाया है, मैं केवल उस पर ठिप्पा लगाया हूं। मैंने मंसूर आलम के समक्ष ठिप्पा दिया था। सिताबिया देवी मेरी समधीन लगती है । रबिना देवी और धनराज मांझी को कोई संतान नहीं है। घटना के दिन मैं गाड़ी चढ़ाकर घर चली गयी थी। मैं अपने बेटा पुतौह को ट्रेन चढ़ाई थी। पहाड़पुर स्टेशन पर ट्रेन पकड़वायी थी। मेरे घर से पहाड़पुर जाने में तीन मिनट लगता है। मैं जब पहाड़पुर स्टेशन आयी थी उस समय ट्रेन लगी हुई थी। मैं मैं बेटा पुतौह के साथ आयी थी। कितना न प्लेटफार्म पर चढ़ाये थे यह याद नहीं है । मैं बेटा पुतौह को लेकर आयी, ट्रेन लगी हुई थी और गाड़ी पर चढ़ा दिया था। मैं नहीं जानती हूं कि जिस बोगी पर चढ़ाया था वह इंजन से कितना दूर था। मैं दो केस की हूं। दोनों केस में वकील साहब कागज-पत्र दाखिल किये हैं। सभी बात वकील साहब से पूछकर लिखवाये हैं । आज मैं दोनों केस में गवाही देने के लिए आयी हूं । मृतक मेरा बेटा और पुतौह है, इसलिए एकही शपथ-पत्र दोनों केस में दाखिल किया हूं। यह सत्य नहीं है कि मेरा बेटा

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पुतौह की मृत्यु पहाड़पुर स्टेशन पर रेलवे लाइन पार करने के दौरान हुई हो। यह कहना सही है कि मेरा बेटा पुतौह पहाड़पुर से जाते समय कट गया था।”

20 As per the inquest report there was no recovery of journey ticket from the possession of the deceased. Kaniya Devi, AW-1 in her affidavit stated that she went to Tankuppa station along with her son and daughter-in-law. On the other hand during her cross- examination she (AW-1) stated she was at home on 21.09.208 and further stated that “पहाड़पुर स्टेशन पर ट्रेन पकड़वायी थी”. It is noteworthy that nowhere in the original application mentioned about Paharpur station. It would be worth mentioning here that applicant Kaniya Devi had not mentioned in her OA that she went to see- off the duo deceased. The statement of Kaniya Devi given before RPF regarding the alleged incident (annexed with DRM's report), even in that statement before RPF nowhere it was mention that she had gone to the station to see- off her daughter-in-law and son. Thus, the statement of Kaniya Devi, AW-1 was contradictory. Hence, cannot relied be upon.

21 Baldev Manjhi, AW-2 in para-2 of her affidavit stated:

“यह कि मैं चिमनी भट्ठा पर लेवर चढ़ाने का काम करता हूँ। उस दिन भी मैं लेवर चढ़ाने के लिए टनकुप्पा स्टेशन पर आये थे। मेरे सामने ही धनराज मौझी दो जेनरल टिकट टनकुप्पा स्टेशन से टाटा नगर जं० तक का खरीदा था। गया- धनबाद इन्टरसिटि* एक्सप्रेस ट्रेन आने के बाद मैं सभी लेवर को ट्रेन पर चढ़ा दिये थे। फिर गाड़ी खुलने के बाद मैं वापस अपने घर को लौट गये थे।”

22 Baldev Manjhi was the witness of the inquest report and he was produced before the Tribunal for his deposition as AW-2. Baldev Manjhi (AW-2) in his cross- examination stated:

“किसी भट्ठा में मजदूर आता-जाता है उसको मैं किसी बोगी में चढ़ाता हूँ। मैं यहां के लोगों को पैसा लेकर भेजने का काम करता हूँ। मैं टनकुप्पा स्टेशन पर मजदूर को पैसा लेकर चढ़ाता हूँ। मेरे नजदीक का स्टेशन पहाड़पुर है। मुझे रेलवे के द्वारा कोई लाइसेंस नहीं मिला है। मैं रामाशीष

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मांझी को जानता हूं। पुलिस द्वारा लिखे गये कागज पर मैं रामाशीष मांझी के सामने दस्तखत किया था। घटना के दिन मैं टनकुपा में था। मैंने अपने आंखों से इन लोगों को कैसे मृत्यु हुआ नहीं देखा था। मेरे सामने पुलिस ने इन लोगों के बॉडी को सर्च गया मैं किया था। पुलिस के सामने जो बयान दिया था जो सही-सही था वही दिया था। शपथ-पत्र वकील साहब ने बनवाये हैं, शपथ-पत्र में क्या लिखा हुआ है इसकी जानकारी नहीं है, मैं केवल शपथ-पत्र पर दस्तखत किया हूं। शपथ-पत्र में तिथि और स्थान खाली है। आज दो शपथ-पत्र दाखिल किया हूं उसमें क्या लिखा हुआ है मैं नहीं जानता हूं। कनिया देवी मेरे ग्रामीण हैं। मैं पैसा के लिए ही कोई काम करता हूं। कनिया देवी ने जो केस किया है उसमें मैं भी साथ में दस्तखत किया हूं। आज मैं कनिया देवी को लेकर आया हूं। कनिया देवी को तीन और बेटा हैं: मालिक चंद, छोटे और संजीवन। बेटों के बारे में पता नहीं है। यह सत्य नहीं है कि कनिया देवी को पैसा मिले इसलिए मैं झुठा गवाही देने के लिए आया हूं। यह सत्य नहीं है कि रबिना देवी और धनराज मांझी की मृत्यु रेलवे लाइन पार करने के दौरान हुई हो।

कोर्ट सवाल

मैं मृतक को ट्रेन पर बैठाने नहीं गया था। मैं मृतक को टिकट कटाते हुए भी नहीं देखा। यह घटना टनकुपा में देखा था। मैं सही बोल रहा हूं मृतक टनकुपा में कटा था जबकि मृतक की मां कनिया देवी ने न्यायाधिकरण में प्रति परीक्षण के दौरान बताया कि मेरा बेटा और पुतौर पहाड़पुर में कटा था। मैं जो बयान दे रहा हूं वह सही है। "

- 23 Baldev Manjhi, AW-2 in his affidavit stated that Dhanraj Manjhi purchased the two general ticket from Tankuppa to Tata Nagar in his presence. On the contrary, during cross-examination he answered the court question by stating that he had not seen the deceased purchasing the journey ticket. Moreover, Baldev Manjhi gave his statement before the RPF (annexed with DRM's report) wherein also he did not state that the deceased purchased the journey ticket in his presence. Thus, it was evident that Baldev Manjhi, AW-2 was not eye witness of the purchasing of the journey ticket by the deceased.

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Sum

- 24 From perusal of the cross- examination of Kaniya Devi (AW-1) and Baldev Manjhi (AW-2), it is evident that there were many anomalies and contradictions in their statement about the purchase of ticket by the deceased. Thus, the statement of Kaniya Devi (AW-1) and Baldev Manjhi (AW-2) create serious doubt on their deposition. Hence, their testimony cannot be relied upon.
- 25 The rules of appreciation of evidence are implicitly clear that the witness if he is reliable, his evidence is to be read without corroboration and in case the witness is partly reliable and partly unreliable, then the Court has to seek corroboration and if the witness is wholly unreliable, no corroboration is required.
- 26 From the testimony of both witness of applicant, it is crystal clear that both the witness Kaniya Devi (AW-1) and Baldev Manjhi (AW-2) were not the eye witness of the purchasing of the journey ticket by the deceased and falling from it. Thus, the applicants were not able to discharge their initial burden of establishing that the deceased was a *bona fide* passenger with a valid ticket. Thus, the onus could not be shifted to the Respondents.
- 27 The investigation report (annexed with DRM's report) concluded:
- " संपूर्ण जॉच कार्यवही के उपरांत यह निष्कर्ष निकलता है कि मृतक रबीना देवी उम्र 20 वर्ष पति- धनराज मौंझी, साठ दरिआँरा टोला परवलडीह थाना- फतेहपुर जिला- गया कि मृत्यु दिनांक 21.09.2018 को किसी अज्ञात गाड़ी पर लापरवाहीपूर्वक यात्रा करने के क्रम में गिरने एवं गहरा घोट लगने के कारण हुयी है। यदि मृतक रेलवे के नियमों के अनुरूप सावधानी पूर्वक गाड़ी के अंदर बैठ कर यात्रा कर रहा होता तो ऐसी घटना घटित नहीं होती। मृतक अपनी मृत्यु के लिए स्वयं जिम्मेवार है। इसमें रेल प्रशासन का कोई दोष नहीं है। "
- 28 As far as untoward incident is concerned, it is observed that station memo did not specifically mention falling from any train rather one dead body of unknown man and one dead body of unknown women were lying in DN mail line between Km 448/24 and 448/22. The train name and number are unknown even in inquest report. However, I.O submitted the final report concluding

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that the deceased fell from Gaya- Dhanbad Intercity Express without recording the statement of any eye witness of the alleged incident.

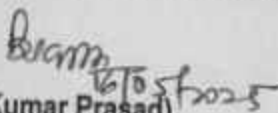
- 29 In view of the above discussion, we are of the view that the applicants bitterly failed to prove that the deceased was a *bona fide* passenger and met with an alleged untoward incident during his valid train journey in terms of Section 123(c)(2) of the Railways Act, 1989. Accordingly, the issue no. 01 & 02 are decided against the applicants.

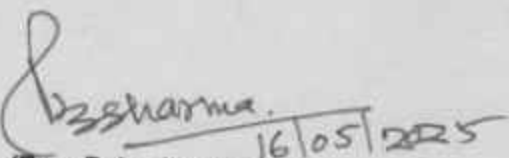
Issue Nos. 3 & 4:

- 30 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.

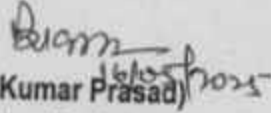
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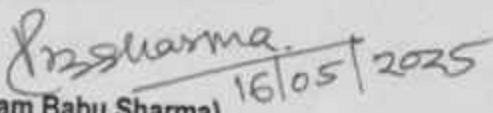
- 31 That the applicant is not entitled for any compensation and the claim application of the applicant being devoid of merits is dismissed on contest with no order as to costs.
- 32 Copy of this order be supplied to both the parties free of costs, and the file, after its due completion, be consigned to the Record Room.


(Shiv Kumar Prasad)
Member (Technical)
RCT Patna
16.05.2025


(Ram Babu Sharma)
Member (Judicial)
RCT Patna
16.05.2025

The Judgment has been signed and pronounced in the open court today i.e., on 16.05.2025


(Shiv Kumar Prasad)
Member (Technical)
RCT Patna
16.05.2025


(Ram Babu Sharma)
Member (Judicial)
RCT Patna
16.05.2025