



रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

Before the Railway Claims Tribunal, Jaipur Bench [as Circuit Bench of
Railway Claims, Patna Bench i.e. Parent Bench of this case. Case
heard through hybrid mode of hearing



Claim Application No. OAllu/PNBE/75/2020

CORAM: Mr. Rajeev Jain, Hon'ble Member (Judicial).
Mr. Shailendra Kumar Sharma, Hon'ble Member (Technical).

Date of Registration: 20.03.2020
Date of Arguments: 05.05.2025
Date of Judgment: 03.06.2025

1. Mintu Devi, aged 39 years (Mother of the deceased).
2. Yogendra Rajak, aged 35 years (Father of the deceased).

Both are residents of Village/Mohalla Gurhatta, Begam Ki Haweli, Patna City, PO Jhauganj, Police Station Khajekala, District Patna, State Bihar PIN-800 008.

..Applicants

Versus

Union of India through the General Manager, East Central Railway, Hajipur.

..Respondent

Claim for Rs.8,00,000/- along with interest

PRESENT

Kumari Rinki Sinha, learned counsel for the applicants (through hybrid mode).

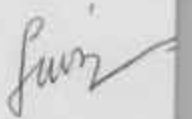
Mr. R.K.Sinha, learned counsel for the respondent (through hybrid mode).

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JUDGMENT

Per Rajeev Jain, Member (Judicial),

1. In compliance of the order of the Hon'ble Chairman, Railway Claims Tribunal, Principal Bench, Delhi, this case has been entrusted to this Bench. It has been instructed by the Hon'ble Chairman that this case is very old and ripe for arguments. The ends of justice demand that for speedy disposal of the case, the same can be entrusted to another Bench. Hence, considering the fact that the case should be decided earliest and the right of speedy trial vests in the applicant, this case is assigned to Jaipur Bench of Railway Claims Tribunal. The Administrative Member of Railway Claims Tribunal, Jaipur Bench is requested to prepone/fix the date of the case and decide the same preferably within one month from the date of receipt of the file of main case and a copy of this order. The case shall be heard through hybrid mode by Jaipur Bench of RCT after informing the counsels for both the parties.
2. This claim application has been preferred before this Tribunal by the parents of the deceased, being the only dependants, under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 125 of the Railways Act, 1989 claiming compensation of Rs.8,00,000/- along with interest @ 12% per annum thereon on account of death of their unmarried son Shri Kishan Kumar (hereinafter to be referred as "the deceased") in an alleged untoward incident.
3. It is the case of the applicants that on 29.4.2019 the deceased commenced his journey from Barh to Rajendranagar T. by Train No.13287 i.e. South Bihar Express holding a valid second class railway journey ticket which was purchased by Shri Tuntun Rajak, maternal uncle of the deceased who came to see him off and ticket was also purchased by him for the deceased. Further, after boarding the said train





by the deceased, Shri Tuntun Rajak returned to his house. It has further been averred in the claim application that due to rush of passengers in the general coach of the said train, the deceased could hardly get a space to stand near the door of the coach. During journey, when the said train was running between Gulzarbag and Rajendranagar T. railway stations, the deceased due to rush of passengers resultant push thereof, accidentally fell down from the running train near Pole No.529/17, suffered multiple grievous injuries and died on the spot as a result thereof. It has also been averred in the claim application that the Deputy Station Manager, Rajendranagar on receipt of the information about this incident, issued a Memo to the GRP/RPF about falling down of the deceased from the train. Acting on the same, the GRP personnel reached the site of incident and started completing the requisite formalities. During this period, the GRP Personnel on the basis of the number found in the Mobile phone of the deceased, also informed the father of the deceased about this incident. On being informed by the Police, the father of the deceased along with some his familiar reached the site of incident and identified the dead body as his son Shri Kishan Kumar. The GRP on the basis of Report submitted by the father of the deceased, registered an UD Case No.14/2019 dated 29.4.2019 and after getting the postmortem conducted on the dead body of the deceased in PMCH, Patna, the same was handed over to the father of the deceased for final rituals. It has been stated by the applicants that the relevant railway journey ticket on which the deceased was performing his aforesaid journey, was lost during the course of incident and that he was a bonafide passenger of the train in question at the relevant time. It has also been stated by the applicants that applicant No.2 Shri Yogendra Rajak, father of the deceased is also known as Shri Yogendra Kumar.

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4. To substantiate their claim, the applicants have made available on record the certified copies of the Memo dated 29.4.2019, FIR dated 29.4.2019, Inquest Report dated 29.4.2019, application submitted by Shri Yogendra Rajak, dated 29.4.2019, Challan of dead body dated 29.4.2019, Postmortem Report dated 29.4.2019, Final Report dated 30.4.2019, Death Certificate of the deceased dated 29.5.2019, Aadhaar Card of the deceased, Family Member Certificate dated 29.7.2019, Aadhaar Cards of the applicants and their Bank Account details.

5. On receipt of the notice, the respondent railway administration appeared before the Tribunal and filed its written statement along with the original DRM's Report pleading therein that the present case is not a case of untoward incident. It has been pleaded on behalf of the respondent Railway Administration that perusal of the written statement, Final Report, Memo, Inquest Report and Postmortem Report, it appears that this is a highly hypothetical case and, therefore, deserves to be dismissed. It has further been pleaded on behalf of the respondent Railway Administration that it is the statutory provision under the said Act/Rule that "the Police on completion of investigation, shall forward the Report thereof to the Magistrate as required under the Cr. P.C. (Section 10 (1) of the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003 but in this case the learned Magistrate has accepted the Investigation Report or taken cognizance on the said Report or not has stated here. Therefore, this case is fit to be dismissed on the sole ground alone. It has also been pleaded on behalf of the respondent Railway Administration that it is settled position of law that burden of proof of the events or matter in disputes is on judgement seekers. As per Section 101 of the Indian Evidence Act, 1872, whosoever desires from any Court to give judgments as to any legal right or liability dependent on the existence of facts which he asserts, must

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prove that those facts exist. It is also stated and submitted that on the point of onus of the case, the Hon'ble Delhi High Court in the case of Geeta vs. Union of India (2014 ACJ 1505) after consideration of all the relevant law, has observed that "*prima facie* the burden was on the applicant to have established in the first instance that the deceased was a bonafide passenger of a particular train and then only the question of factum of his death in an untoward incident would have arisen". After perusal of the DRM's Report, it is stated and submitted that this is a case of run over. It is also pertinent to state here that Guard of the said train has specifically stated that no such occurrence of incident took place. Besides, no ticket was recovered from the person of the deceased. It has also been pleaded on behalf of the respondent Railway Administration that the Final Report and Inquest Report have major contradiction. Hence, this claim application has been filed only to get unlawful gain. It has further been pleaded on behalf of the respondent Railway Administration that as per Section 123 (c) (2) of the Railways Act, 1989 "the accidental falling of any passenger from a train carrying passenger" stipulates that two things are necessary for decision of any case (a) accidental falling and (b) falling of any passenger from a train carrying passengers. Therefore, it is important to decide both these issues apart from other important issues like bonafide passenger and others. It is also settled principle of law that onus shall lie upon the applicants to prove their case. On the basis of these and other pleas, dismissal of the claim application has been sought by the respondent Railway Administration.

6. Based on the pleadings of the parties and material made available on record, following issues were formulated by the Tribunal on 28.6.2021:

1. *Whether deceased was a bonafide passenger of Train No.13287?*

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2. *Whether the death of the deceased is covered under Section 123 (c) (2) of the Railways Act, 1989?*
3. *Whether applicant/dependants are dependent of the deceased?*
4. *Whether applicant/dependants are entitled to receive compensation, if yes, to what extent?*
7. In the evidence, applicant No.1 Smt. Mintu Devi has filed her own examination-in-chief on affidavit. The relevant documents filed along with the claim application, were got exhibited by her as A/1 to A/12. She was cross-examined by learned counsel for the respondent Railway Administration on 16.5.2023.
8. Respondent railway administration in its evidence, has filed the original DRM's Report along with its annexures.

FINDINGS

9. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced by them and heard the arguments advanced on behalf of both the sides by their counsels. Our findings on the aforesaid issues are as follows:

Issue No.1 & 2 -

10. Both these issues are being dealt with and decided together being inter-linked with each other.
11. Applicant No.1 Smt. Mintu Devi has deposed by way of her examination-in-chief on affidavit that she is applicant No.1 and the deceased was her son. She has further deposed that on 29.4.2019 the deceased was

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travelling from Barh to Rajendranagar Terminal by a passenger train named South Bihar Express holding a valid railway journey ticket which was lost during the course of incident. It has further been deposed by her that her brother namely Tuntun Rajak saw the deceased purchasing the ticket and boarding the train. Since she has not good relation with Shri Tuntun Rajak, he has refused to appear before the Court. During cross-examination, she has stated that she knows the facts mentioned in the affidavit. Her son died in the train accident. Yogendra Kumar is her husband. Tuntun Rajak was in Barh at the time of incident. She was at home at the time of occurrence of the incident. Her testimony is based on hearsay.

12. *Per contra*, learned counsel for the respondent has argued that deceased was not a bonafide passenger of the alleged train at the relevant time within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989 as during search made on the person of the dead body, no ticket was recovered. He has further argued that death of the deceased did not happen due to alleged untoward incident. The alleged incident took place due to his own criminal act and, therefore, the present case is covered under clause (c) to the proviso to Section 124A of the Railways Act, 1989 for the purpose of denying compensation to the applicants. It has also been argued by him that this fact stands corroborated with the original DRM's Report. Hence, the claim application of the applicants is liable to be dismissed with costs.
13. We have given our careful consideration to submissions made by both the sides and also perused the material made available on record by them.

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14. On the aspect of burden of proof in railway accident case, Hon'ble Supreme Court of India in case of *Union of India Vs. Rina Devi Civil Appeal No.4945 of 2018* decided on 09.5.2018, has held 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 not a bona fide passenger. Initial burden will be on the claimant which shall 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 be explained accordingly."

15. Thus, it is settled law that finding a dead body in the Railway premises will not be conclusive to hold that the deceased/injured was a bonafide passenger for which claim for compensation could be maintained. The initial burden to establish the fact that the deceased was a bonafide passenger at the time of occurrence of the incident, could only be discharged by filing an affidavit of the relevant facts by the applicants.
16. It is an undisputed fact that the dead body of the deceased was found between Gulzarbag and Rajendranagar T. railway stations. The respondent Railway Administration has not adduced any evidence to show that an extensive and thorough search was made on the person of the deceased as well as at the site of incident to locate the ticket or other personal belongings of the deceased. Hence, the possibility of missing ticket which is a small piece of paper, either at the site of incident or during the shifting of dead body of the deceased to the

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hospital for conducting Postmortem thereon, in our considered view, cannot be ruled out.

17. Ex.A/1 is the certified copy of the Memo issued by the Deputy Station Manager, Rail PP Rajendranagar T. and it is has specifically been mentioned therein that it has been informed by a passenger that an unknown male after falling down from some train, is lying in dead condition on UP Line at Kms.539/17-19. Meaning thereby the deceased was travelling by a passenger carrying train at the relevant time. Since this Memo is a primary document, the authenticity of the same, in our considered view, cannot be doubted.



18. We feel it pertinent to mention that nobody can enter into the railway station or into the train without having a valid ticket as at all entry points, Railways have deputed its staff to check authorized/unauthorized person and even in train, TTE has been deputed to check such person who does not possess a valid ticket. Thus, if a person is travelling by a train, it is presumed that he/she is travelling with a valid ticket and onus lies upon the railway authority to prove that such person was not having a ticket and as such he or she is not a bonafide passenger. In the present case, the respondent Railway Administration in view of the law and principle laid down by the Hon'ble Supreme Court in the case of **Union of India v. Rina Devi** 2018 SCC OnLine SC 507, has failed to discharge the burden of proof *prima facie* shifted upon them to prove by way of sufficient evidence that at the relevant time, the deceased was not having a valid ticket.

19. Further, we feel it pertinent to state that so far as the plea of respondent Railway that the incident in question falls under clause (c) to the proviso to Section 124-A of the Railways Act 1989 for the

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purpose of denying compensation to the applicants is concerned, first of all there is nothing on record which could prove that the deceased met with this incident during trespass which is a criminal act under Section 147 of the Railways Act, 1989 for which no compensation is admissible to the applicants. The respondent Railway Administration has not examined any Loco Pilot or any railway official to prove that the deceased was knocked down by some train during crossing of railway track.

20. Although it has been concluded in the DRM's Report submitted by the Enquiry Officer before the competent authority after detailed investigation that the deceased neither was travelling by any train nor is there any eye-witness to the incident and he died due to run over during trespass, no supporting evidence has been adduced on behalf of the respondent Railway Administration. A mere plea without any supporting any cogent or reliable evidence, in our considered view, cannot be taken into consideration to draw and adverse inference particularly taking into consideration the facts and circumstances of the instant case as discussed above.
21. Thus, the respondent Railway Administration in view of the law and principle laid down by the Hon'ble Supreme Court in the case of **Union of India v. Rina Devi (supra)** has failed to discharge the burden of proof *prima facie* shifted upon them to prove by way of sufficient evidence either oral or documentary that the deceased was not a bonafide passenger at the relevant time and his death did not happen due to an untoward incident within the meaning of Section 123 (c) (2) read with Section 124A of the Railways Act, 1989 for which no compensation is admissible to the applicants.

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22. We also feel it pertinent to state that all the documents prepared by the Police subsequent the occurrence of the incident, clearly indicate that death of the deceased happened due to a fall from the running train and resultant injuries. We see no reason to disbelieve the same as the same were prepared in the ordinary course of duty without any fear and favour keeping in view the facts and circumstances of the case.
23. In view of the judgment quoted above, our discussions in foregoing paras and looking at the facts and circumstances of this particular case, it is held that the deceased while travelling as a bonafide passenger within the meaning of Section 2 (29) read with Section 124A of the Railways Act, 1989, met with an untoward incident suffered grave injuries and died as a result thereof. Accordingly both these issues are decided in favour of the applicants and against the respondent Railway Administration.

Issue No. 3 & 4 –

24. Both these issues are dealt with and decided together being inter-linked with each other.
25. Present claim application has been filed by the parents of the deceased being the only dependants. Applicant No.1 Smt. Mintu Devi has deposed by way of her affidavit of evidence that the deceased was her unmarried son and the present applicants are the only dependants of the deceased. No cross-examination has been effected on the point of dependence of the present applicants. However, to prove their dependence the applicants have filed the Death Certificate of the deceased, Aadhaar Cards and Family Card as Ex.A/9 to A/11 respectively. On the contrary, the respondent

railway administration has not adduced any evidence whatsoever to rebut the dependence of the present applicants on the point of their dependence. Moreover, during pendency of the claim application, none else appeared before the Tribunal claiming himself/herself as one of the dependants or the sole dependant of the deceased.



Applying the principles laid down in *Rina Devi (supra)* in the present case, it is held that the present applicants being the only dependants of the deceased within the meaning of Section 123 (b) (i) of the Railways Act, 1989, are entitled to get an amount of Rs.8,00,000/- as compensation as prescribed under Part-I of the Schedule appended to Rule 3 (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended on 22/12/2016 (w.e.f. 01.01.2017) along with interest @ 9% per annum from the date of incident i.e. 29.4.2019 till the actual date of depositing the whole awarded amount by the respondent Railway Administration with the Additional Registrar of this Tribunal. Both these issues are decided accordingly.

ORDER

27. The claim application is allowed in favour of the applicants. The respondent railway administration is directed to pay Rs.8,00,000/- to them as compensation along with interest @ 9% per annum from the date of incident i.e. 29.4.2019 till the actual date of depositing the whole awarded amount by the respondent Railway Administration with the Additional Registrar of this Tribunal.
28. The respondent Railway Administration is hereby directed to deposit the amount awarded with the Additional Registrar of this Tribunal

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within a period of 30 days from the date of receipt of certified copy of this judgement.

29. The payment shall be made to the applicants in the manner described as follows:



Name of the applicants	Amount to be paid to the applicants immediately through ECS by NEFT/RTGS to the SB Account	Amount to be invested in fixed deposit scheme of Nationalized Bank and monthly interest to be credited to the SB Account
Mintu Devi (mother of the deceased)	Rs. 40,000/- (Rs. forty thousand only) along with proportionate interest.	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.
Yogendra Rajak (father of the deceased)	Rs. 40,000/- (Rs. forty thousand only) along with proportionate interest.	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.

30. The applicants are hereby directed to submit the details of their Aadhaar linked Bank accounts of a Nationalized Bank situated nearest to their place of residence to the Additional Registrar of this Tribunal.

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31. The Bank shall not permit any joint name(s) to be added in the saving Bank accounts or fixed deposit account of the applicants i.e. their Saving Bank Accounts shall be an individual Saving Bank Account and not a Joint Account.



The monthly interest be credited by Electronic Clearing System (ECS) in the said Saving Bank Accounts of the applicants.

33. The maturity amounts of the FDRs be credited by Electronic Clearing System (ECS) in the said Saving Bank Accounts of the applicants.

34. No loan, advance, withdrawal, or pre-mature payment be allowed on the fixed deposit without permission of the Tribunal.

35. 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 accounts of the applicants so that no debit card be issued in respect of the accounts of the applicants from any other Branch of the Bank.

36. The Bank shall issue a letter duly signed and stamped addressed to the Additional Registrar of the Tribunal 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 signed and stamped by the Bank before the Additional Registrar of the Tribunal. The Bank is further directed to permit the applicants to withdraw money from their Saving Bank Accounts by means of a withdrawal form only.

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37. 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, alongwith a calculation sheet and the same shall be filed with the Additional Registrar.



38. In the facts and circumstances of the case, there is, however, no order as to costs.

Registry is directed to send a free certified copy of this judgment directly to the applicants at their postal address mentioned in the claim application by Speed Post in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

40. Judgment pronounced, signed and sealed today i.e. **03.06.2025**

Shailendra Kumar Sharma

(Shailendra Kumar Sharma)

Member (Technical)
RCT/Jaipur Bench
acting as Circuit Bench
of the RCT,
Patna Bench

Rajeev Jain

(Rajeev Jain)

Member (Judicial)
RCT/Jaipur Bench
acting as Circuit Bench
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