

**RAILWAY CLAIMS TRIBUNAL, PATNA BENCH
AT PATNA**

CORAM

**HON'BLE G JOHN PRASAD, MEMBER (TECHNICAL)
RCT, SECUNDERABAD ON CIRCUIT BENCH
(THROUGH VIRTUAL HEARING)**

OA II (U)/PNBE/89 OF 2019

Date of Filing : 30.01.2019
Date of Decision : 30.07.2025

1. Anil Kumar Thakur, S/o Digranjan Thakur
2. Neelam Devi, W/o Anil Kumar Thakur
3. Abhinav Kumar, S/o Anil Kumar Thakur
4. Anmol Kumar S/o Anil Kumar Thakur

Applicants R/o Village: Lakhanpur,
P.O.- Lakhanpur & P.S.- Katra,
District: Muzafferpur, State: Bihar 847307

...Applicants

Versus

1. Union of India rep. by
The General Manager,
East Central Railway,
Hajipur.
2. Digaranjan Thakur, S/o Naradhi Thakur
R/o Lakhanpur, Katra,
Muzafferpur, Bihar, 847307.

...Respondents

Present:-

Counsel for the Applicant : Shri Pravin Kumar Gupta
Counsel for Respondent : Shri Radhika Raman

JUDGMENT

1. The applicants Anil Kumar Thakur and others filed this application under Sec.16 of Railway Claims Tribunal Act 1987 Sec.123 (2), 124-A and 125 of the Railway Act 1989, claiming compensation of Rs.10,00,000/- with interest for the death of Suman Surbhi D/o Anil Kumar Thakur, (hereinafter

C. T. Prasad

referred to a deceased) in an alleged untoward incident that occurred on 30.01.2018.

2. The case of the Applicants is that on 29.01.2018 the deceased came to Patna from Muzafferpur, there she informed her brother Abhinav Kumar that she reached Patna and purchased a journey ticket at Patna Railway Station to go to Gaya Railway Station. She also informed her brother that she would board the next available train heading to Gaya. Further on 30.01.2018 the father of the deceased got a phone call from Parsa Police Station, informing about the untoward incident. The relatives of the deceased immediately reached the location where the body was being held in the custody of GRP/Patna and identified it as that of Suman Surbhi. Further the deceased body was handed over to her relatives for final rites.

3. The Respondent No.1 Railway filed Written Statement denying various averments made in the application and has put the applicants to strict proof of the same. Further they denied that the deceased was not a bonafide passenger of Tr.No. 12393 UP and submitted that the incident took place while the deceased was crossing the line. They have further put the applicants to strict proof that the deceased died in an untoward incident. Further it was prayed to dismiss the said application in the interest of justice.

4. On the strength of the above pleadings, the following issues were framed in Hindi and same have been translated into English as under:-

- 1) Whether the deceased was a bonafide passenger or not?



2) Whether death of the deceased occurred in an untoward incident as defined under Sec.123(c) of the Railways Act, 1989?

3) Whether the Applicants is/are the Dependents of the deceased?

4) Whether the applicants/Dependents are entitled to compensation, if yes, to what amount?

5. The Applicant No.1 Anil Kumar Thakur filed his affidavit as AW.1 and was cross examined. On behalf of applicants Shri.Abhinav Kumar (brother of the deceased) filed affidavit as AW2 and was cross examined. On behalf of Respondent, no witness was examined, however they filed Divisional Railway Manager Report same is taken on record.

6. Heard the arguments of learned Counsels for the Applicants and Respondent Railway. On considering the material documents available on record and the contentions of the learned counsel for both the parties the findings on the issues are recorded as follows:-

FINDINGS

ISSUE NO. 1 & 2 :

7. The applicant No.1 (father of the deceased) in his affidavit as AW.1 reiterated the facts mentioned in the Original Application. He deposed that his daughter had informed them that she would contact them upon reaching Gaya Railway Station; however, no call was received from her on the day of the incident with regard to her arrival. He further stated that after knowing about the incident, he went to Parsa Railway Station along with his son, where he was handed over his daughters phone and from there went to Patna and saw his deceased daughter. Further PME was done and the body was handed over for cremation.



8. AW1, his cross-examination by the Counsel for Respondent No.1, has stated that the deceased, Suman Surabhi, was his unmarried daughter. At the time of the incident, she was approximately 18 years old. is daughter was studying in Muzaffarpur and was traveling alone from Muzaffarpur to Gaya. She would often visit her maternal uncle's house. After the incident, the police contacted him using the mobile phone found in the possession of the deceased. Apart from the mobile phone, no other items were recovered from the possession of the deceased, including the purse and bag she had been carrying. AW1 further testified that he was not an eyewitness to the purchase of the ticket by the deceased, nor to her travel or the incident of her fall.

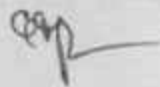
9. To support the claim, the applicant filed following documents i.e. Attested Copy of the Station Memo issued by Station Manager/ECR Patna Jn (Annexure-1), Attested copy of Death Review Report (Annexure-2), Attested copy of the Dead body Challan (Annexure-3), Attested copy receipt of dead body given by Anil Kumar Thakur (Annexure-4), Attested copy of the Application given by Anil Kumar Thakur (Annexure-5), Attested copy of FIR dt.30.01.2018 bearing No.335/18 (Annexure-6), Attested copy of Final Report (Annexure-7), Attested copy of PME Report (Annexure-8), Copies of Aadhar Cards of the applicants (Annexure-9), copy of Pass Book of the applicant No.1 (Annexure-10), Copy of death certificate of the deceased (Annexure-11), Copy of Family member Certificate issued by Gram Panchayat (Annexure-12) and copy of the letter given by Abhinav Kumar, confirming the receipt of the deceased's mobile phone (Annexure-13).



10. On behalf of the Applicants, Shri Abhinav Kumar filed affidavit as AW2 stated that His deceased sister, Suman Surabhi, had traveled from Muzaffarpur to Patna by some train on 29.01.2018 and had informed him that she had reached Patna and purchased a travel ticket from Patna to Gaya. She had also mentioned that she would board whichever train arrived first and would reach Gaya by that train. However, he did not receive any information about her reaching Gaya that night. In the meantime, he received information from Parsa Police that the body of an unidentified girl was lying at the Patna GRP. Upon receiving this information, he went to the Parsa Police Station along with his father, where he obtained his sister's mobile number from the police. He then went to the Railway Police Station at Patna Junction, and upon seeing the deceased, he identified her as his sister, Suman Surabhi.

11. AW2 was cross examined at length by Respondent No.1 Counsel, wherein he stated that at the time of the incident, his sister was about 17-18 years old and she was studying in 12th class. He used to stay in Darbhanga and the deceased used to stay in a hostel in Navodaya Vidyalaya Muzaffarpur. Two days before the incident, she came home for a vacation. AW2 denied the suggestion made by the Counsel for the Respondent No.1 that the deceased had committed suicide as a result of being scolded by her father.

12. Respondent No.1 filed Divisional Manager Report which was taken on record and marked as Ex.R1. Basing on the investigation and enquiries, it was concluded as follows:



"...deceased Suman Surabhi son of Anil Kumar Thakur, resident of Lakhanpur, Police Station- Katra, District- Muzaffarpur was not travelling by any train and no railway ticket was found with her. There is no eyewitness to the incident. The deceased died due to being hit by a moving train while crossing the track at the spot without authorisation, which falls under the category of crime under Section 147 of the Railway Act. Therefore, the Railway Administration has no responsibility in the above situation. The incident did not occur under the circumstances described in the unforeseen incident defined in sub-section (c) of Section 123 of the Railway Act."

13. In the course of arguments, the learned counsel for the Applicants submitted that the deceased reached Patna and purchased a journey ticket at Patna Railway Station to go to Gaya Railway Station. She informed her brother that she would board the next available train heading to Gaya. Further on 30.01.2018 the father of the deceased got a phone call from Parsa Police Station, informing about the untoward incident. The relatives of the deceased immediately reached the location where the body was being held in the custody of GRP/Patna and identified it as that of Suman Surbhi. Further the deceased body was handed over to her relatives for final rites. Further Counsel for applicant submitted that the ticket purchased by the deceased for the said travel has been lost during the fall. Even though the ticket was lost, it does not disqualify the deceased from being considered a bona fide passenger; therefore, she ought to be regarded as one. To strengthen his argument, Applicants' Counsel relied on the judgement of Hon'ble Supreme Court in Union of India Vs. Rina Devi in Civil Appeal No.4945 of 2018 (AIR 2018 SC 2362) and quoted that:

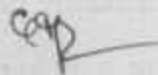
"mere presence of a dead body on the railway premises will not be conclusive to hold that the injured or deceased was a bonafide passenger for which claim for compensation could be maintained. However, mere absence of the ticket with such injured or

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deceased will not negate the claim that he was a bonafide passenger. Initial burden will be on the claimants which can be discharged by filing an affidavit of the relevant facts, the burden will then shift on to the Railways and the issue can be decided on the facts shown for the attending circumstances. This will have to be dealt with from case to case on the basis of facts found."

14. Basing on the above citation, The Learned Counsel for Applicants argued Shri.Abhinav Kumar (brother of the deceased) was informed by the deceased about her purchase of ticket and travel and in support thereof he filed an affidavit as AW2. Hence, placing reliance on the affidavit of AW2, the learned counsel for the applicant contended that the deceased was a bonafide passenger, and the mere fact that the journey ticket was lost at the time of the fall does not negate her status as a bonafide passenger.

15. Coming to the untoward incident, Counsel for Applicant argued that when the deceased was travelling in an unknown train from Patna Jn. to Gaya and during the said travel when the train was crossing Parsa and Patna Rialway Stations, the deceased accidentally fell down from the train at KM.No.01/19 on Patna-Gaya line and died on the spot. To prove the same Counsel for Applicants relied on the Station Memo issued by Station Manager/Patna Dt.30.01.2018 wehre in the above facts were mentioned and addressed to GRP/Patna. Counsel for applicant also argued that the final report and other relevant documents also mention that the deceased fell from the running train, hence Counsel for Applicant submitted that the deceased was a bonafide passenger and died due to fall from train and applicants as eligible for compensation from Respondent Railway as per law.



16. Contrary to the submissions of the applicants, learned Counsel for Respondent No.1 vehemently argued that the affidavit and testimony of AW.1 and AW.2 are completely unreliable, as he was neither an eyewitness to the deceased purchasing a train ticket nor to the fall. Regarding the untoward incident, Counsel submitted that there was no eye witness to the fall of the deceased. Also applicants have failed to submit as to in which train the deceased travelled for the said journey. Also Counsel for Respondent Railway submitted that the place of incident was near to place of the deceased's relatives where she was going. Basing on the above submission, Counsel for Respondent No.1 vehemently argued that the said case is a clear case of trespass and hit by train.

17. In response to the arguments advanced by the learned counsel for the respondent No.1, the applicants' counsel submitted that the claim that the deceased was hit by a train is purely hearsay, and no evidence or witness has been produced by the respondent Railway to substantiate this assertion. Furthermore, the deceased's relative's residence is located approximately 75 kilometers away from the site of the incident, and the contention submission of Counsel for Respondent unconvincing and contrary.

18. This Court observes that the applicants have not produced any cogent evidence to establish that the deceased was in possession of a valid journey ticket for the said travel. The testimony of AW2 cannot be relied upon, as he was not an eyewitness either to the purchase of the ticket by the deceased or to her travel. Mere reference to a phone call in which the deceased allegedly informed AW2 about purchasing a ticket and undertaking the journey is



insufficient to accept his evidence and conclude that the deceased was a bona fide passenger. Furthermore, a perusal of the Post-Mortem Examination (PME) report clearly indicates that the deceased sustained injuries only to the head, nose, and arm. No other injuries were found on the body, which would be inconsistent with the nature of injuries typically sustained in a fall from a running train. This court also have some serious reservations regarding the conduct of the Applicants, as they did not make any effort to ascertain the whereabouts of the deceased or verify whether she had reached her destination. Such indifference, particularly where extreme concern is generally shown when a young girl is travelling during night hours, appears unusual and inconsistent with the expected conduct of the applicants as Indian parents.

19. It is true that the body has been found near the bushes by the side of the track/ in the Railway premises, but the applicants totally failed to substantiate that the deceased travelled by any train. In terms of the Judgement in Union of India Vs. Rina Devi as stated supra, mere presence of a dead body on the railway premises will not be conclusive to hold that the deceased was a bonafide passenger and claim for compensation could be maintained. Hence, I am of the opinion that the present case is not a death due to untoward incident of falling from a train as the applicants have filed to prove their case conclusively either orally or through material evidence.

20. Therefore, in the light of the above discussion, it is concluded that the Applicant have failed to prove their case that the victim was a bonafide passenger and died in an 'untoward incident' as defined in Section - 123 (c)

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(2) of Railway Act, 1989. Thus, this Issue is decided against the Applicants and in favour of the Respondent No.1.

ISSUE NO.3

21. As per the claim Application, the Applicants are father, brothers and mother of the deceased. To prove their relation with the deceased, applicants have filed copies of Aadhar Cards and copy of Family member Certificate. Respondent has not raised any objections regarding this issue. However, this Court observes that the deceased was a student and not an earning member, therefore her brothers (Applicants No. 3 & 4) cannot be regarded as dependents. Furthermore, Respondent No. 2, being the paternal grandfather of the deceased, also cannot be considered as dependent upon her in any manner. In view of this, the only applicants No.1 & 2, being father and mother of the deceased are held to be dependents of deceased as defined under Sec.123(b) of the Railways Act.

ISSUE NO. 4

22. In view of the findings on Issue No.1& 2 in negative, applicants are held not entitled to any compensation.

23. In the result, it is, therefore,

Ordered

that the claim application of the Applicants is hereby dismissed, on contest, but without cost.

CeT Pensed
(G. John Prasad)
Member (Technical)