

RAILWAY CLAIMS TRIBUNAL
RANCHI BENCH, RANCHI

CORAM:

GYAN PRAKASH TEWARI - **Member Judicial.**
DHRUV SINGH - **Member Technical.**

Claim Application No.: OA(IIU)/RNC/21/2019
Check List No. : 2903190004
Date of Incident : 12.02.2018
Date of filing : 11.02.2019
Date of decision : 02.02.2024.

- 1) Shweta Gorai, aged 27 years, wife of Late Dilip Gorai
- 2) Budhan Gorai, aged 55 years, father of Late Dilip Gorai
- 3) Ankit Gorai, aged 06 years, minor son of Late Dilip Gorai

Applicant No.3 being minor is represented through his natural guardian Applicant No.1.

R/o. Vill – Adarsh Nagar, Etwari Nagar, Post –Hirapur, PS- Dhanbad, District – Dhanbad, Pin-826001(Jharkhand) ... Applicants.

Versus

Union of India represented by
The General Manager,
East Central Railway,
Hajipur. ... Respondent.

Claim for Rs.8,00,000/- (With interest)

Ld. Counsel for Applicants - Shri Dilip Kumar Singh.
Ld. Counsel for Respondent - Shri Sudhir Kumar Srivastava.

JUDGEMENT

01. This claim application is filed by the applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act, 1989 seeking compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) with interest from the respondent railway for the death of Dilip Gorai (hereinafter referred to as “*the deceased*”) in an alleged untoward incident that occurred on 12.02.2018.

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02. **Brief facts of the case:**

It has been pleaded in the claim application that on 12.02.2018 after purchasing a valid 2nd class general ticket from Dokra Halt to GomohJn, the deceased DilipGorai boarded Train no.635513 Asansol Varanasi Passenger at Dokra Halt for going to Gomoh Jn. There was heavy rush in the said Train and the deceased any how boarded the train. Due to heavy rush, he was only able to stand near the gate inside the bogie where the passengers were jostling each other for space. The deceased who was standing near the gate could not maintain his balance and accidentally fell down from the moving train between Pole No.265/25 and 265/27 near Dokra Halt due to the jerk of the moving train. As a result, the deceased sustained serious injuries and cut his head and died on the spot. After getting information on phone about the incident, the father of the deceased Budhan Gorai reached the place of the incident along with some neighbors and identified the dead body of his deceased son as Dilip Gorai. They received the dead body for cremation after postmortem. On the basis of Fardbayan of the father of the deceased, a U/D Case no.11/2018 was registered at Dhanbad Rail P.S. The ticket was lost during the untoward incident. The applicants (wife, one minor son and father of the deceased), being dependents, have filed this claim application for compensation from the respondent railway.

03. Respondent have filed the Written Statement and denied their liability. It has been specifically denied that the deceased purchased any journey ticket or boarded any train. Respondent have further re-iterated that nowhere in the OA(IIU)/RNC/21/2019

DRM's report any such material has come which may corroborate the story of the claimant and it has come in the final opinion in the DRM's report that the death would have occurred due to fall from any unknown train or due to run over by any unknown train. It has been mentioned in the DRM's report that the head of the deceased was cut. The death may have occurred due to run over by a running train with the intention of suicide. As per Inquest Report no ticket was recovered from the possession of the deceased, hence the deceased was not a bonafide passenger. The respondent prayed that the claim application must be dismissed.

04. From the pleadings, following issues were framed on 19.06.2019:-

1. *Whether this case comes under the jurisdiction of Ranchi Bench?*
2. *Whether the deceased was a bonafide passenger as alleged?*
3. *Whether the deceased had died due to alleged untoward incident?*
4. *Whether the applicant or other dependents of the deceased are entitled to get compensation?*
5. *Relief.*

05. In support of their claim, applicant No.1, wife of the deceased, filed her affidavit for examination in chief as AW.1 has cross-examined by the respondent and proved the documents, which are filed and marked Exhibits as under. She was also cross-examined by the respondent.

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|--|---|----------|
| 1. Certified copy of SM's memo | - | Ext.A.1. |
| 2. Certified copy of Fardbayan | - | Ext.A.2. |
| 3. Certified copy of FIR | - | Ext.A.3. |
| 4. Certified copy of Inquest Report | - | Ext.A.4. |
| 5. Certified copy of PM Report | - | Ext.A.5. |
| 6. Certified Copy of Final report | - | Ext.A.6. |
| 7. Photo Copy of Family member certificate | | |

8. Photo copy of Death certificate of deceased
9. Photo copy of Aadhar card and Bank passbook of Shweta Gorai
10. Photo copy of Aadhar card and Bank passbook of Budhan Gorai
11. Photo copy of Aadhar card of Dilip Gorai
12. Photo copy of Aadhar card and Bank passbook of Ankit Gorai

06. Respondents have not examined any witness, but submitted the Statutory Enquiry Report (DRM's Report), which is marked as Ext.R.1.

07. Heard both sides counsel and perused the case file. On consideration of material available on record and the contentions of the learned Counsels appearing for both the parties, issue wise findings are recorded as follows:

FINDINGS

08. Issue No.1:- Territorial Jurisdiction

From perusal of case file, it is observed that the applicants are residents of Village/Mohalla :Adarsh Nagar, Etwari Nagar, Post – Hirapur, PS-Dhanbad, District – Dhanbad, Pin-826001 (Jharkhand) and place of incident is near Dokra Halt which also falls within the territorial jurisdiction of this Tribunal. The respondents have not raised any objection, regarding territorial jurisdiction of this claim. As such, this Tribunal has the territorial jurisdiction to try, entertain and determine this present OA. Therefore, issue no.1 is decided in favour of the applicants.

09. Issue Nos.2 and 3: Bonafide Status and Untoward incident

Both the issues are discussed together being inter-linked.

It is the case of the applicants that the deceased Dilip Gorai was travelling on 12.02.2018 by Train No.635513 Asansol-Varanasi Passenger from Dokra Halt to Gomoh. Due to heavy rush, the deceased somehow managed to board the train. As he was standing near the gate of the bogie, he accidentally fell down from the moving train at Dokra Halt due to jerk during movement of the train.

The respondent has denied that the deceased bought any journey ticket or boarded in any train.

On going through the claim application and materials available with case file, it is observed that nobody has seen deceased Dilip Gorai towards purchase of journey ticket on 12.02.2018, boarding and falling down from any moving train.

As per the memo of Dy.SM/Dhanbad it was reported to him by SM/Dokra that one male had been run over at KM No.265/25-27 on the UP Line. On duty porter Gaurav Kumar was deputed to the place of the incident and as per his statement available on case file, he saw a male dead body at KM No.265/25-27 between the two tracks. After observation, he concluded that it appears that the deceased was run over by some unknown train.

The counsel for the respondent has argued that as per DRM's report the head of the deceased was separated from the body. Such an injury does not happen in cases of a fall from a running train. At best it indicates that the death may have been caused due to run over by a running train.

The post-mortem report has also clearly indicated that the death was caused due to separation of the head from the trunk.

As per fardbayan of Budhan Gorai it has been mentioned that his son left for some business to go to Gomoh on 12.02.2018 at around 07.00 hrs. Thereafter, he received information at around 02.05 hrs from an unknown person that somebody had died due to fall from a running train. On visiting the site of the incident, he identified the deceased as his son.

During the cross-examination of AW(1) Shweta Gorai, she has mentioned that two of his friends were travelling with the deceased by the name of Ravi Sen and Prashant Gorai. These two witnesses have however not been produced by the applicant to prove her case. In fact, the father of the deceased has also not mentioned these two co-passengers in his fardbayan which indicates that these co-passengers have been added as an afterthought to prove travel. The applicants have failed to prove the bonafide travel or accidental fall.

On being questioned as to whether she has filed the ticket of her husband, she replied that she has filed the ticket through her advocate. However, it is seen that no evidence of ticket is available on file. There is no recovery of the ticket in the Inquest Report either. In fact, the Inquest Report mentions the recovery of one black colour mobile phone of Intex Company and one piece of paper on which the name of the deceased and his address is written as Dilip Gorai, Etwarinagar, Telipara, Hirapur, Dhanbad, Mob. No.7369067888, 843484235. The Ld.counsel for the respondent has argued

that the deceased probably wanted to be identified through these things after committing suicide.

The body has been found between the two tracks with the head outside the track. It is also seen that the site of the incident is at the originating station itself and there is no train having train No.635513 as mentioned in the O.A. on which the deceased was allegedly travelling. Two most important witnesses mentioned during the cross-examination have not produced to prove bonafide travel or accidental fall from the train. These two witnesses were actually travelling with the deceased, they were surely an eye witness of this untoward incident.

In view of the above discussions and material available on record, it is held that the deceased was not a bonafide passenger of the alleged train and he might have died due to the reasons other than accidental fall from a train. Therefore, issue Nos.2 and 3 are decided against the applicants.

10. **Issue Nos. 4 and 5: Dependency and Relief**

In view of the above, issues related with dependency and reliefs do not survive, hence not taken up for discussion.

As a result, it is, therefore

Ordered

that the claim application filed by the applicants is devoid of merits and hence dismissed, on contest. There is no order as to costs.

11. **The Registry** shall supply a copy of this Order to the applicants and the respondent separately by Speed Post in compliance of Rule 34(3) of the Railway Claim Tribunal (Procedure) Rules, 1989.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
02.02.2024.

(GYAN PRAKASH TEWARI)
Member (Judicial)
RCT/Ranchi
02.02.2024.